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Title 3—

The President

Executive Order 12656 of November 18, 1988

Assignment of Emergency Preparedness Responsibilities

WHEREAS our national security is dependent upon our ability to assure continuity of government, at every level, in any national security emergency situation that might confront the Nation; and

WHEREAS effective national preparedness planning to meet such an emergency, including a massive nuclear attack, is essential to our national survival; and

WHEREAS effective national preparedness planning requires the identification of functions that would have to be performed during such an emergency, the assignment of responsibility for developing plans for performing these functions, and the assignment of responsibility for developing the capability to implement those plans; and

WHEREAS the Congress has directed the development of such national security emergency preparedness plans and has provided funds for the accomplishment thereof;

NOW, THEREFORE, by virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and pursuant to Reorganization Plan No. 1 of 1958 (72 Stat. 1799), the National Security Act of 1947, as amended, the Defense Production Act of 1950, as amended, and the Federal Civil Defense Act, as amended, it is hereby ordered that the responsibilities of the Federal departments and agencies in national security emergencies shall be as follows:

PART 1—Preamble

Section 101. *National Security Emergency Preparedness Policy.*

(a) The policy of the United States is to have sufficient capabilities at all levels of government to meet essential defense and civilian needs during any national security emergency. A national security emergency is any occurrence, including natural disaster, military attack, technological emergency, or other emergency, that seriously degrades or seriously threatens the national security of the United States. Policy for national security emergency preparedness shall be established by the President. Pursuant to the President's direction, the National Security Council shall be responsible for developing and administering such policy. All national security emergency preparedness activities shall be consistent with the Constitution and laws of the United States and with preservation of the constitutional government of the United States.

(b) Effective national security emergency preparedness planning requires: identification of functions that would have to be performed during such an emergency; development of plans for performing these functions; and development of the capability to execute those plans.

Sec. 102. *Purpose.*

(a) The purpose of this Order is to assign national security emergency preparedness responsibilities to Federal departments and agencies. These assignments are based, whenever possible, on extensions of the regular missions of the departments and agencies.

(b) This Order does not constitute authority to implement the plans prepared pursuant to this Order. Plans so developed may be executed only in the event that authority for such execution is authorized by law.

Sec. 103. *Scope.*

(a) This Order addresses national security emergency preparedness functions and activities. As used in this Order, preparedness functions and activities include, as appropriate, policies, plans, procedures, and readiness measures that enhance the ability of the United States Government to mobilize for, respond to, and recover from a national security emergency.

(b) This Order does not apply to those natural disasters, technological emergencies, or other emergencies, the alleviation of which is normally the responsibility of individuals, the private sector, volunteer organizations, State and local governments, and Federal departments and agencies unless such situations also constitute a national security emergency.

(c) This Order does not require the provision of information concerning, or evaluation of, military policies, plans, programs, or states of military readiness.

(d) This Order does not apply to national security emergency preparedness telecommunications functions and responsibilities that are otherwise assigned by Executive Order 12472.

Sec. 104. *Management of National Security Emergency Preparedness.*

(a) The National Security Council is the principal forum for consideration of national security emergency preparedness policy.

(b) The National Security Council shall arrange for Executive branch liaison with, and assistance to, the Congress and the Federal judiciary on national security-emergency preparedness matters.

(c) The Director of the Federal Emergency Management Agency shall serve as an advisor to the National Security Council on issues of national security emergency preparedness, including mobilization preparedness, civil defense, continuity of government, technological disasters, and other issues, as appropriate. Pursuant to such procedures for the organization and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of and management of the National Security Council process as the President may establish, the Director of the Federal Emergency Management Agency also shall assist in the implementation of national security emergency preparedness policy by coordinating with the other Federal departments and agencies and with State and local governments, and by providing periodic reports to the National Security Council on implementation of national security emergency preparedness policy.

(d) National security emergency preparedness functions that are shared by more than one agency shall be coordinated by the head of the Federal department or agency having primary responsibility and shall be supported by the heads of other departments and agencies having related responsibilities.

(e) There shall be a national security emergency exercise program that shall be supported by the heads of all appropriate Federal departments and agencies.

(f) Plans and procedures will be designed and developed to provide maximum flexibility to the President for his implementation of emergency actions.

Sec. 105. *Interagency Coordination.*

(a) All appropriate Cabinet members and agency heads shall be consulted regarding national security emergency preparedness programs and policy issues. Each department and agency shall support interagency coordination to improve preparedness and response to a national security emergency and

shall develop and maintain decentralized capabilities wherever feasible and appropriate.

(b) Each Federal department and agency shall work within the framework established by, and cooperate with those organizations assigned responsibility in, Executive Order No. 12472, to ensure adequate national security emergency preparedness telecommunications in support of the functions and activities addressed by this Order.

PART 2—General Provisions

Sec. 201. *General.* The head of each Federal department and agency, as appropriate, shall:

(1) Be prepared to respond adequately to all national security emergencies, including those that are international in scope, and those that may occur within any region of the Nation;

(2) Consider national security emergency preparedness factors in the conduct of his or her regular functions, particularly those functions essential in time of emergency. Emergency plans and programs, and an appropriate state of readiness, including organizational infrastructure, shall be developed as an integral part of the continuing activities of each Federal department and agency;

(3) Appoint a senior policy official as Emergency Coordinator, responsible for developing and maintaining a multi-year, national security emergency preparedness plan for the department or agency to include objectives, programs, and budgetary requirements;

(4) Design preparedness measures to permit a rapid and effective transition from routine to emergency operations, and to make effective use of the period following initial indication of a probable national security emergency. This will include:

(a) Development of a system of emergency actions that defines alternatives, processes, and issues to be considered during various stages of national security emergencies;

(b) Identification of actions that could be taken in the early stages of a national security emergency or pending national security emergency to mitigate the impact of or reduce significantly the lead times associated with full emergency action implementation;

(5) Base national security emergency preparedness measures on the use of existing authorities, organizations, resources, and systems to the maximum extent practicable;

(6) Identify areas where additional legal authorities may be needed to assist management and, consistent with applicable Executive orders, take appropriate measures toward acquiring those authorities;

(7) Make policy recommendations to the National Security Council regarding national security emergency preparedness activities and functions of the Federal Government;

(8) Coordinate with State and local government agencies and other organizations, including private sector organizations, when appropriate. Federal plans should include appropriate involvement of and reliance upon private sector organizations in the response to national security emergencies;

(9) Assist State, local, and private sector entities in developing plans for mitigating the effects of national security emergencies and for providing services that are essential to a national response;

(10) Cooperate, to the extent appropriate, in compiling, evaluating, and exchanging relevant data related to all aspects of national security emergency preparedness;

(11) Develop programs regarding congressional relations and public information that could be used during national security emergencies;

(12) Ensure a capability to provide, during a national security emergency, information concerning Acts of Congress, presidential proclamations, Executive orders, regulations, and notices of other actions to the Archivist of the United States, for publication in the **Federal Register**, or to each agency designated to maintain the **Federal Register** in an emergency;

(13) Develop and conduct training and education programs that incorporate emergency preparedness and civil defense information necessary to ensure an effective national response;

(14) Ensure that plans consider the consequences for essential services provided by State and local governments, and by the private sector, if the flow of Federal funds is disrupted;

(15) Consult and coordinate with the Director of the Federal Emergency Management Agency to ensure that those activities and plans are consistent with current National Security Council guidelines and policies.

Sec. 202. *Continuity of Government.* The head of each Federal department and agency shall ensure the continuity of essential functions in any national security emergency by providing for: succession to office and emergency delegation of authority in accordance with applicable law; safekeeping of essential resources, facilities, and records; and establishment of emergency operating capabilities.

Sec. 203. *Resource Management.* The head of each Federal department and agency, as appropriate within assigned areas of responsibility, shall:

(1) Develop plans and programs to mobilize personnel (including reservist programs), equipment, facilities, and other resources;

(2) Assess essential emergency requirements and plan for the possible use of alternative resources to meet essential demands during and following national security emergencies;

(3) Prepare plans and procedures to share between and among the responsible agencies resources such as energy, equipment, food, land, materials, minerals, services, supplies, transportation, water, and workforce needed to carry out assigned responsibilities and other essential functions, and cooperate with other agencies in developing programs to ensure availability of such resources in a national security emergency;

(4) Develop plans to set priorities and allocate resources among civilian and military claimants;

(5) Identify occupations and skills for which there may be a critical need in the event of a national security emergency.

Sec. 204. *Protection of Essential Resources and Facilities.* The head of each Federal department and agency, within assigned areas of responsibility, shall:

(1) Identify facilities and resources, both government and private, essential to the national defense and national welfare, and assess their vulnerabilities and develop strategies, plans, and programs to provide for the security of such facilities and resources, and to avoid or minimize disruptions of essential services during any national security emergency;

(2) Participate in interagency activities to assess the relative importance of various facilities and resources to essential military and civilian needs and to integrate preparedness and response strategies and procedures;

(3) Maintain a capability to assess promptly the effect of attack and other disruptions during national security emergencies.

Sec. 205. *Federal Benefit, Insurance, and Loan Programs.* The head of each Federal department and agency that administers a loan, insurance, or benefit program that relies upon the Federal Government payment system shall

coordinate with the Secretary of the Treasury in developing plans for the continuation or restoration, to the extent feasible, of such programs in national security emergencies.

Sec. 206. *Research.* The Director of the Office of Science and Technology Policy and the heads of Federal departments and agencies having significant research and development programs shall advise the National Security Council of scientific and technological developments that should be considered in national security emergency preparedness planning.

Sec. 207. *Redelegation.* The head of each Federal department and agency is hereby authorized, to the extent otherwise permitted by law, to redelegate the functions assigned by this Order, and to authorize successive redelegations to organizations, officers, or employees within that department or agency.

Sec. 208. *Transfer of Functions.* Recommendations for interagency transfer of any emergency preparedness function assigned under this Order or for assignment of any new emergency preparedness function shall be coordinated with all affected Federal departments and agencies before submission to the National Security Council.

Sec. 209. *Retention of Existing Authority.* Nothing in this Order shall be deemed to derogate from assignments of functions to any Federal department or agency or officer thereof made by law.

PART 3—Department of Agriculture

Sec. 301. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Agriculture shall:

(1) Develop plans to provide for the continuation of agricultural production, food processing, storage, and distribution through the wholesale level in national security emergencies, and to provide for the domestic distribution of seed, feed, fertilizer, and farm equipment to agricultural producers;

(2) Develop plans to provide food and agricultural products to meet international responsibilities in national security emergencies;

(3) Develop plans and procedures for administration and use of Commodity Credit Corporation inventories of food and fiber resources in national security emergencies;

(4) Develop plans for the use of resources under the jurisdiction of the Secretary of Agriculture and, in cooperation with the Secretaries of Commerce, Defense, and the Interior, the Board of Directors of the Tennessee Valley Authority, and the heads of other government entities, plan for the national security emergency management, production, and processing of forest products;

(5) Develop, in coordination with the Secretary of Defense, plans and programs for water to be used in agricultural production and food processing in national security emergencies;

(6) In cooperation with Federal, State, and local agencies, develop plans for a national program relating to the prevention and control of fires in rural areas of the United States caused by the effects of enemy attack or other national security emergencies;

(7) Develop plans to help provide the Nation's farmers with production resources, including national security emergency financing capabilities;

(8) Develop plans, in consonance with those of the Department of Health and Human Services, the Department of the Interior, and the Environmental Protection Agency, for national security emergency agricultural health services and forestry, including:

(a) Diagnosis and control or eradication of diseases, pests, or hazardous agents (biological, chemical, or radiological) against animals, crops, timber, or products thereof;

(b) Protection, treatment, and handling of livestock and poultry, or products thereof, that have been exposed to or affected by hazardous agents;

(c) Use and handling of crops, agricultural commodities, timber, and agricultural lands that have been exposed to or affected by hazardous agents; and

(d) Assuring the safety and wholesomeness, and minimizing losses from hazards, of animals and animal products and agricultural commodities and products subject to continuous inspection by the Department of Agriculture or owned by the Commodity Credit Corporation or by the Department of Agriculture;

(9) In consultation with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in agriculture-related international civil emergency preparedness planning and related activities.

Sec. 302. *Support Responsibility.* The Secretary of Agriculture shall assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical agricultural materials.

PART 4—Department of Commerce

Sec. 401. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Commerce shall:

(1) Develop control systems for priorities, allocation, production, and distribution of materials and other resources that will be available to support both national defense and essential civilian programs in a national security emergency;

(2) In cooperation with the Secretary of Defense and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;

(3) In cooperation with the Secretary of Defense and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;

(4) In cooperation with the Secretary of Defense, perform industry analyses to assess capabilities of the commercial industrial base to support the national defense, and develop policy alternatives to improve the international competitiveness of specific domestic industries and their abilities to meet defense program needs;

(5) In cooperation with the Secretary of the Treasury, develop plans for providing emergency assistance to the private sector through direct or participation loans for the financing of production facilities and equipment;

(6) In cooperation with the Secretaries of State, Defense, Transportation, and the Treasury, prepare plans to regulate and control exports and imports in national security emergencies;

(7) Provide for the collection and reporting of census information on human and economic resources, and maintain a capability to conduct emergency surveys to provide information on the status of these resources as required for national security purposes;

(8) Develop overall plans and programs to ensure that the fishing industry continues to produce and process essential protein in national security emergencies;

(9) Develop plans to provide meteorological, hydrologic, marine weather, geodetic, hydrographic, climatic, seismic, and oceanographic data and services to Federal, State, and local agencies, as appropriate;

(10) In coordination with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in industry-related international (NATO and allied) civil emergency preparedness planning and related activities.

Sec. 402. *Support Responsibilities.* The Secretary of Commerce shall:

(1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical materials;

(2) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest and fishery products;

(3) Assist, in consultation with the Secretaries of State and Defense, the Secretary of the Treasury in the formulation and execution of economic measures affecting other nations.

PART 5—Department of Defense

Sec. 501. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Defense shall:

(1) Ensure military preparedness and readiness to respond to national security emergencies;

(2) In coordination with the Secretary of Commerce, develop, with industry, government, and the private sector, reliable capabilities for the rapid increase of defense production to include industrial resources required for that production;

(3) Develop and maintain, in cooperation with the heads of other departments and agencies, national security emergency plans, programs, and mechanisms to ensure effective mutual support between and among the military, civil government, and the private sector;

(4) Develop and maintain damage assessment capabilities and assist the Director of the Federal Emergency Management Agency and the heads of other departments and agencies in developing and maintaining capabilities to assess attack damage and to estimate the effects of potential attack on the Nation;

(5) Arrange, through agreements with the heads of other Federal departments and agencies, for the transfer of certain Federal resources to the jurisdiction and/or operational control of the Department of Defense in national security emergencies;

(6) Acting through the Secretary of the Army, develop, with the concurrence of the heads of all affected departments and agencies, overall plans for the management, control, and allocation of all usable waters from all sources within the jurisdiction of the United States. This includes:

(a) Coordination of national security emergency water resource planning at the national, regional, State, and local levels;

(b) Development of plans to assure emergency provision of water from public works projects under the jurisdiction of the Secretary of the Army to public water supply utilities and critical defense production facilities during national security emergencies;

(c) Development of plans to assure emergency operation of waterways and harbors; and

(d) Development of plans to assure the provision of potable water;

(7) In consultation with the Secretaries of State and Energy, the Director of the Federal Emergency Management Agency, and others, as required, develop plans and capabilities for identifying, analyzing, mitigating, and responding to hazards related to nuclear weapons, materials, and devices; and maintain liaison, as appropriate, with the Secretary of Energy and the Members of the Nuclear Regulatory Commission to ensure the continuity of nuclear weapons production and the appropriate allocation of scarce resources, including the

recapture of special nuclear materials from Nuclear Regulatory Commission licensees when appropriate;

(8) Coordinate with the Administrator of the National Aeronautics and Space Adminstration and the Secretary of Energy, as appropriate, to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies;

(9) Develop, in coordination with the Secretary of Labor, the Directors of the Selective Service System, the Office of Personnel Management, and the Federal Emergency Management Agency, plans and systems to ensure that the Nation's human resources are available to meet essential military and civilian needs in national security emergencies;

(10) Develop national security emergency operational procedures, and coordinate with the Secretary of Housing and Urban Development with respect to residential property, for the control, acquisition, leasing, assignment and priority of occupancy of real property within the jurisdiction of the Department of Defense;

(11) Review the priorities and allocations systems developed by other departments and agencies to ensure that they meet Department of Defense needs in a national security emergency; and develop and maintain the Department of Defense programs necessary for effective utilization of all priorities and allocations systems;

(12) Develop, in coordination with the Attorney General of the United States, specific procedures by which military assistance to civilian law enforcement authorities may be requested, considered, and provided;

(13) In cooperation with the Secretary of Commerce and other departments and agencies, identify those industrial products and facilities that are essential to mobilization readiness, national defense, or post-attack survival and recovery;

(14) In cooperation with the Secretary of Commerce and other Federal departments and agencies, analyze potential effects of national security emergencies on actual production capability, taking into account the entire production complex, including shortages of resources, and develop preparedness measures to strengthen capabilities for production increases in national security emergencies;

(15) With the assistance of the heads of other Federal departments and agencies, provide management direction for the stockpiling of strategic and critical materials, conduct storage, maintenance, and quality assurance operations for the stockpile of strategic and critical materials, and formulate plans, programs, and reports relating to the stockpiling of strategic and critical materials.

Sec. 502. *Support Responsibilities.* The Secretary of Defense shall:

(1) Advise and assist the heads of other Federal departments and agencies in the development of plans and programs to support national mobilization. This includes providing, as appropriate:

(a) Military requirements, prioritized and time-phased to the extent possible, for selected end-items and supporting services, materials, and components;

(b) Recommendations for use of financial incentives and other methods to improve defense production as provided by law; and

(c) Recommendations for export and import policies;

(2) Advise and assist the Secretary of State and the heads of other Federal departments and agencies, as appropriate, in planning for the protection, evacuation, and repatriation of United States citizens in threatened areas overseas;

(3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;

(4) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;

(5) In consultation with the Secretaries of State and Commerce, assist the Secretary of the Treasury in the formulation and execution of economic measures that affect other nations;

(6) Support the Secretary of State and the heads of other Federal departments and agencies as appropriate in the formulation and implementation of foreign policy, and the negotiation of contingency and post-emergency plans, intergovernmental agreements, and arrangements with allies and friendly nations, which affect national security;

(7) Coordinate with the Director of the Federal Emergency Management Agency the development of plans for mutual civil-military support during national security emergencies;

(8) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills.

PART 6—Department of Education

Sec. 601. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Education shall:

(1) Assist school systems in developing their plans to provide for the earliest possible resumption of activities following national security emergencies;

(2) Develop plans to provide assistance, including efforts to meet shortages of critical educational personnel, to local educational agencies;

(3) Develop plans, in coordination with the Director of the Federal Emergency Management Agency, for dissemination of emergency preparedness instructional material through educational institutions and the media during national security emergencies.

Sec. 602. *Support responsibilities.* The Secretary of Education shall:

(1) Develop plans to support the Secretary of Labor in providing education and training to overcome shortages of critical skills;

(2) Support the Secretary of Health and Human Services in the development of human services educational and training materials, including self-help program materials for use by human service organizations and professional schools.

PART 7—Department of Energy

Sec. 701. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Energy shall:

(1) Conduct national security emergency preparedness planning, including capabilities development, and administer operational programs for all energy resources, including:

(a) Providing information, in cooperation with Federal, State, and energy industry officials, on energy supply and demand conditions and on the requirements for and the availability of materials and services critical to energy supply systems;

(b) In coordination with appropriate departments and agencies and in consultation with the energy industry, develop implementation plans and operational systems for priorities and allocation of all energy resource requirements for national defense and essential civilian needs to assure national security emergency preparedness;

(c) Developing, in consultation with the Board of Directors of the Tennessee Valley Authority, plans necessary for the integration of its power system into the national supply system;

(2) Identify energy facilities essential to the mobilization, deployment, and sustainment of resources to support the national security and national welfare, and develop energy supply and demand strategies to ensure continued provision of minimum essential services in national security emergencies;

(3) In coordination with the Secretary of Defense, ensure continuity of nuclear weapons production consistent with national security requirements;

(4) Assure the security of nuclear materials, nuclear weapons, or devices in the custody of the Department of Energy, as well as the security of all other Department of Energy programs and facilities;

(5) In consultation with the Secretaries of State and Defense and the Director of the Federal Emergency Management Agency, conduct appropriate international liaison activities pertaining to matters within the jurisdiction of the Department of Energy;

(6) In consultation with the Secretaries of State and Defense, the Director of the Federal Emergency Management Agency, the Members of the Nuclear Regulatory Commission, and others, as required, develop plans and capabilities for identification, analysis, damage assessment, and mitigation of hazards from nuclear weapons, materials, and devices;

(7) Coordinate with the Secretary of Transportation in the planning and management of transportation resources involved in the bulk movement of energy;

(8) At the request of or with the concurrence of the Nuclear Regulatory Commission and in consultation with the Secretary of Defense, recapture special nuclear materials from Nuclear Regulatory Commission licensees where necessary to assure the use, preservation, or safeguarding of such material for the common defense and security;

(9) Develop national security emergency operational procedures for the control, utilization, acquisition, leasing, assignment, and priority of occupancy of real property within the jurisdiction of the Department of Energy;

(10) Manage all emergency planning and response activities pertaining to Department of Energy nuclear facilities.

Sec. 702. *Support Responsibilities.* The Secretary of Energy shall:

(1) Provide advice and assistance, in coordination with appropriate agencies, to Federal, State, and local officials and private sector organizations to assess the radiological impact associated with national security emergencies;

(2) Coordinate with the Secretaries of Defense and the Interior regarding the operation of hydroelectric projects to assure maximum energy output;

(3) Support the Secretary of Housing and Urban Development and the heads of other agencies, as appropriate, in the development of plans to restore community facilities;

(4) Coordinate with the Secretary of Agriculture regarding the emergency preparedness of the rural electric supply systems throughout the Nation and the assignment of emergency preparedness responsibilities to the Rural Electrification Administration.

PART 8—Department of Health and Human Services

Sec. 801. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Health and Human Services shall:

(1) Develop national plans and programs to mobilize the health industry and health resources for the provision of health, mental health, and medical services in national security emergencies;

(2) Promote the development of State and local plans and programs for provision of health, mental health, and medical services in national security emergencies;

(3) Develop national plans to set priorities and allocate health, mental health, and medical services' resources among civilian and military claimants;

(4) Develop health and medical survival information programs and a nationwide program to train health and mental health professionals and paraprofessionals in special knowledge and skills that would be useful in national security emergencies;

(5) Develop programs to reduce or eliminate adverse health and mental health effects produced by hazardous agents (biological, chemical, or radiological), and, in coordination with appropriate Federal agencies, develop programs to minimize property and environmental damage associated with national security emergencies;

(6) Develop guidelines that will assure reasonable and prudent standards of purity and/or safety in the manufacture and distribution of food, drugs, biological products, medical devices, food additives, and radiological products in national security emergencies;

(7) Develop national plans for assisting State and local governments in rehabilitation of persons injured or disabled during national security emergencies;

(8) Develop plans and procedures to assist State and local governments in the provision of emergency human services, including lodging, feeding, clothing, registration and inquiry, social services, family reunification and mortuary services and interment;

(9) Develop, in coordination with the Secretary of Education, human services educational and training materials for use by human service organizations and professional schools; and develop and distribute, in coordination with the Director of the Federal Emergency Management Agency, civil defense information relative to emergency human services;

(10) Develop plans and procedures, in coordination with the heads of Federal departments and agencies, for assistance to United States citizens or others evacuated from overseas areas.

Sec. 802. *Support Responsibility.* The Secretary of Health and Human Services shall support the Secretary of Agriculture in the development of plans related to national security emergency agricultural health services.

PART 9—Department of Housing and Urban Development

Sec. 901. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Housing and Urban Development shall:

(1) Develop plans for provision and management of housing in national security emergencies, including:

(a) Providing temporary housing using Federal financing and other arrangements;

(b) Providing for radiation protection by encouraging voluntary construction of shelters and voluntary use of cost-efficient design and construction techniques to maximize population protection;

(2) Develop plans, in cooperation with the heads of other Federal departments and agencies and State and local governments, to restore community facilities, including electrical power, potable water, and sewage disposal facilities, damaged in national security emergencies.

PART 10—Department of the Interior

Sec. 1001. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Interior shall:

(1) Develop programs and encourage the exploration, development, and mining of strategic and critical and other nonfuel minerals for national security emergency purposes;

(2) Provide guidance to mining industries in the development of plans and programs to ensure continuity of production during national security emergencies;

(3) Develop and implement plans for the management, control, allocation, and use of public land under the jurisdiction of the Department of the Interior in national security emergencies and coordinate land emergency planning at the Federal, State, and local levels.

Sec. 1002. *Support Responsibilities.* The Secretary of the Interior shall:

(1) Assist the Secretary of Defense in formulating and carrying out plans for stockpiling strategic and critical minerals;

(2) Cooperate with the Secretary of Commerce in the identification and evaluation of facilities essential for national security emergencies;

(3) Support the Secretary of Agriculture in planning for the national security management, production, and processing of forest products.

PART 11—Department of Justice

Sec. 1101. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Attorney General of the United States shall:

(1) Provide legal advice to the President and the heads of Federal departments and agencies and their successors regarding national security emergency powers, plans, and authorities;

(2) Coordinate Federal Government domestic law enforcement activities related to national security emergency preparedness, including Federal law enforcement liaison with, and assistance to, State and local governments;

(3) Coordinate contingency planning for national security emergency law enforcement activities that are beyond the capabilities of State and local agencies;

(4) Develop national security emergency plans for regulation of immigration, regulation of nationals of enemy countries, and plans to implement laws for the control of persons entering or leaving the United States;

(5) Develop plans and procedures for the custody and protection of prisoners and the use of Federal penal and correctional institutions and resources during national security emergencies;

(6) Provide information and assistance to the Federal Judicial branch and the Federal Legislative branch concerning law enforcement, continuity of government, and the exercise of legal authority during national security emergencies;

(7) Develop intergovernmental and interagency law enforcement plans and counterterrorism programs to interdict and respond to terrorism incidents in the United States that may result in a national security emergency or that occur during such an emergency;

(8) Develop intergovernmental and interagency law enforcement plans to respond to civil disturbances that may result in a national security emergency or that occur during such an emergency.

Sec. 1102. *Support Responsibilities.* The Attorney General of the United States shall:

(1) Assist the heads of Federal departments and agencies, State and local governments, and the private sector in the development of plans to physically protect essential resources and facilities;

(2) Support the Secretaries of State and the Treasury in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel, property, and other assets within the jurisdiction of the United States;

(3) Support the Secretary of the Treasury in developing plans to control the movement of property entering and leaving the United States;

(4) Support the heads of other Federal departments and agencies and State and local governments in developing programs and plans for identifying fatalities and reuniting families in national security emergencies;

(5) Support the intelligence community in the planning of its counterintelligence and counterterrorism programs.

PART 12—Department of Labor

Sec. 1201. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Labor shall:

(1) Develop plans and issue guidance to ensure effective use of civilian workforce resources during national security emergencies. Such plans shall include, but not necessarily be limited to:

(a) Priorities and allocations, recruitment, referral, training, employment stabilization including appeals procedures, use assessment, and determination of critical skill categories; and

(b) Programs for increasing the availability of critical workforce skills and occupations;

(2) In consultation with the Secretary of the Treasury, develop plans and procedures for wage, salary, and benefit costs stabilization during national security emergencies;

(3) Develop plans and procedures for protecting and providing incentives for the civilian labor force during national security emergencies;

(4) In consultation with other appropriate government agencies and private entities, develop plans and procedures for effective labor-management relations during national security emergencies.

Sec. 1202. *Support Responsibilities.* The Secretary of Labor shall:

(1) Support planning by the Secretary of Defense and the private sector for the provision of human resources to critical defense industries during national security emergencies;

(2) Support planning by the Secretary of Defense and the Director of Selective Service for the institution of conscription in national security emergencies.

PART 13—Department of State

Sec. 1301. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of State shall:

(1) Provide overall foreign policy coordination in the formulation and execution of continuity of government and other national security emergency preparedness activities that affect foreign relations;

(2) Prepare to carry out Department of State responsibilities in the conduct of the foreign relations of the United States during national security emergencies, under the direction of the President and in consultation with the heads of other appropriate Federal departments and agencies, including, but not limited to:

(a) Formulation and implementation of foreign policy and negotiation regarding contingency and post-emergency plans, intergovernmental agreements, and arrangements with United States' allies;

(b) Formulation, negotiation, and execution of policy affecting the relationships of the United States with neutral states;

(c) Formulation and execution of political strategy toward hostile or enemy states;

(d) Conduct of mutual assistance activities;

(e) Provision of foreign assistance, including continuous supervision and general direction of authorized economic and military assistance programs;

(f) Protection or evacuation of United States citizens and nationals abroad and safeguarding their property abroad, in consultation with the Secretaries of Defense and Health and Human Services;

(g) Protection of international organizations and foreign diplomatic, consular, and other official personnel and property, or other assets, in the United States, in coordination with the Attorney General and the Secretary of the Treasury;

(h) Formulation of policies and provisions for assistance to displaced persons and refugees abroad;

(i) Maintenance of diplomatic and consular representation abroad; and

(j) Reporting of and advising on conditions overseas that bear upon national security emergencies.

Sec. 1302. *Support Responsibilities.* The Secretary of State shall:

(1) Assist appropriate agencies in developing planning assumptions concerning accessibility of foreign sources of supply;

(2) Support the Secretary of the Treasury, in consultation, as appropriate, with the Secretaries of Commerce and Defense, in the formulation and execution of economic measures with respect to other nations;

(3) Support the Secretary of Energy in international liaison activities pertaining to nuclear materials facilities;

(4) Support the Director of the Federal Emergency Management Agency in the coordination and integration of United States policy regarding the formulation and implementation of civil emergency resources and preparedness planning;

(5) Assist the Attorney General of the United States in the formulation of national security emergency plans for the control of persons entering or leaving the United States.

PART 14—Department of Transportation

Sec. 1401. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of Transportation shall:

(1) Develop plans to promulgate and manage overall national policies, programs, procedures, and systems to meet essential civil and military transportation needs in national security emergencies;

(2) Be prepared to provide direction to all modes of civil transportation in national security emergencies, including air, surface, water, pipelines, and public storage and warehousing, to the extent such responsibility is vested in the Secretary of Transportation. This direction may include:

(a) Implementation of priorities for all transportation resource requirements for service, equipment, facilities, and systems;

(b) Allocation of transportation resource capacity; and

(c) Emergency management and control of civil transportation resources and systems, including privately owned automobiles, urban mass transit, intermodal transportation systems, the National Railroad Passenger Corporation and the St. Lawrence Seaway Development Corporation;

(3) Develop plans to provide for the smooth transition of the Coast Guard as a service to the Department of the Navy during national security emergencies. These plans shall be compatible with the Department of Defense planning systems, especially in the areas of port security and military readiness;

(4) In coordination with the Secretary of State and the Director of the Federal Emergency Management Agency, represent the United States in transportation-related international (including NATO and allied) civil emergency preparedness planning and related activities;

(5) Coordinate with State and local highway agencies in the management of all Federal, State, city, local, and other highways, roads, streets, bridges, tunnels, and publicly owned highway maintenance equipment to assure efficient and safe use of road space during national security emergencies;

(6) Develop plans and procedures in consultation with appropriate agency officials for maritime and port safety, law enforcement, and security over, upon, and under the high seas and waters subject to the jurisdiction of the United States to assure operational readiness for national security emergency functions;

(7) Develop plans for the emergency operation of U.S. ports and facilities, use of shipping resources (U.S. and others), provision of government war risks insurance, and emergency construction of merchant ships for military and civil use;

(8) Develop plans for emergency management and control of the National Airspace System, including provision of war risk insurance and for transfer of the Federal Aviation Administration, in the event of war, to the Department of Defense;

(9) Coordinate the Interstate Commerce Commission's development of plans and preparedness programs for the reduction of vulnerability, maintenance, restoration, and operation of privately owned railroads, motor carriers, inland waterway transportation systems, and public storage facilities and services in national security emergencies.

Sec. 1402. *Support Responsibility.* The Secretary of Transportation shall coordinate with the Secretary of Energy in the planning and management of transportation resources involved in the bulk movement of energy materials.

PART 15—Department of the Treasury

Sec. 1501. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Secretary of the Treasury shall:

(1) Develop plans to maintain stable economic conditions and a market economy during national security emergencies; emphasize measures to minimize inflation and disruptions; and, minimize reliance on direct controls of the monetary, credit, and financial systems. These plans will include provisions for:

(a) Increasing capabilities to minimize economic dislocations by carrying out appropriate fiscal, monetary, and regulatory policies and reducing susceptibility to manipulated economic pressures;

(b) Providing the Federal Government with efficient and equitable financing sources and payment mechanisms;

(c) Providing fiscal authorities with adequate legal authority to meet resource requirements;

(d) Developing, in consultation with the Board of Governors of the Federal Reserve System, and in cooperation with the Board of Directors of the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board, the National Credit Union Administration Board, the Farm Credit Administration Board and other financial institutions, plans for the continued or resumed operation and liquidity of banks, savings and loans, credit unions, and farm credit institutions, measures for the reestablishment of evidence of assets or liabilities, and provisions for currency withdrawals and deposit insurance;

(2) Provide for the protection of United States financial resources including currency and coin production and redemption facilities, Federal check disbursement facilities, and precious monetary metals;

(3) Provide for the preservation of, and facilitate emergency operations of, public and private financial institution systems, and provide for their restoration during or after national security emergencies;

(4) Provide, in coordination with the Secretary of State, for participation in bilateral and multilateral financial arrangements with foreign governments;

(5) Maintain the Federal Government accounting and financial reporting system in national security emergencies;

(6) Develop plans to protect the President, the Vice President, other officers in the order of presidential succession, and other persons designated by the President;

(7) Develop plans for restoration of the economy following an attack; for the development of emergency monetary, credit, and Federal benefit payment programs of those Federal departments and agencies that have responsibilities dependent on the policies or capabilities of the Department of the Treasury; and for the implementation of national policy on sharing war losses;

(8) Develop plans for initiating tax changes, waiving regulations, and, in conjunction with the Secretary of Commerce or other guaranteeing agency, granting or guaranteeing loans for the expansion of industrial capacity, the development of technological processes, or the production or acquisition of essential materials;

(9) Develop plans, in coordination with the heads of other appropriate Federal departments and agencies, to acquire emergency imports, make foreign barter arrangements, or otherwise provide for essential material from foreign sources using, as appropriate, the resources of the Export-Import Bank or resources available to the Bank;

(10) Develop plans for encouraging capital inflow and discouraging the flight of capital from the United States and, in coordination with the Secretary of State, for the seizure and administration of assets of enemy aliens during national security emergencies;

(11) Develop plans, in consultation with the heads of appropriate Federal departments and agencies, to regulate financial and commercial transactions with other countries;

(12) Develop plans, in coordination with the Secretary of Commerce and the Attorney General of the United States, to control the movement of property entering or leaving the United States;

(13) Cooperate and consult with the Chairman of the Securities and Exchange Commission, the Chairman of the Federal Reserve Board, the Chairman of the Commodities Futures Trading Commission in the development of emergency financial control plans and regulations for trading of stocks and commodities, and in the development of plans for the maintenance and restoration of stable and orderly markets;

(14) Develop plans, in coordination with the Secretary of State, for the formulation and execution of economic measures with respect to other nations in national security emergencies.

Sec. 1502. *Support Responsibilities.* The Secretary of the Treasury shall:

(1) Cooperate with the Attorney General of the United States on law enforcement activities, including the control of people entering and leaving the United States;

(2) Support the Secretary of Labor in developing plans and procedures for wage, salary, and benefit costs stabilization;

(3) Support the Secretary of State in plans for the protection of international organizations and foreign diplomatic, consular, and other official personnel and property or other assets in the United States.

PART 16—Environmental Protection Agency

Sec. 1601. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the Environmental Protection Agency shall:

(1) Develop Federal plans and foster development of State and local plans designed to prevent or minimize the ecological impact of hazardous agents (biological, chemical, or radiological) introduced into the environment in national security emergencies;

(2) Develop, for national security emergencies, guidance on acceptable emergency levels of nuclear radiation, assist in determining acceptable emergency levels of biological agents, and help to provide detection and identification of chemical agents;

(3) Develop, in coordination with the Secretary of Defense, plans to assure the provision of potable water supplies to meet community needs under national security emergency conditions, including claimancy for materials and equipment for public water systems.

Sec. 1602. *Support Responsibilities.* The Administrator of the Environmental Protection Agency shall:

(1) Assist the heads of other Federal agencies that are responsible for developing plans for the detection, reporting, assessment, protection against, and reduction of effects of hazardous agents introduced into the environment;

(2) Advise the heads of Federal departments and agencies regarding procedures for assuring compliance with environmental restrictions and for expeditious review of requests for essential waivers.

PART 17—Federal Emergency Management Agency

Sec. 1701. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Federal Emergency Management Agency shall:

(1) Coordinate and support the initiation, development, and implementation of national security emergency preparedness programs and plans among Federal departments and agencies;

(2) Coordinate the development and implementation of plans for the operation and continuity of essential domestic emergency functions of the Federal Government during national security emergencies;

(3) Coordinate the development of plans, in cooperation with the Secretary of Defense, for mutual civil-military support during national security emergencies;

(4) Guide and assist State and local governments and private sector organizations in achieving preparedness for national security emergencies, including development of plans and procedures for assuring continuity of government, and support planning for prompt and coordinated Federal assistance to States and localities in responding to national security emergencies;

(5) Provide the President a periodic assessment of Federal, State, and local capabilities to respond to national security emergencies;

(6) Coordinate the implementation of policies and programs for efficient mobilization of Federal, State, local, and private sector resources in response to national security emergencies;

(7) Develop and coordinate with all appropriate agencies civil defense programs to enhance Federal, State, local, and private sector capabilities for national security emergency crisis management, population protection, and recovery in the event of an attack on the United States;

(8) Develop and support public information, education and training programs to assist Federal, State, and local government and private sector entities in planning for and implementing national security emergency preparedness programs;

(9) Coordinate among the heads of Federal, State, and local agencies the planning, conduct, and evaluation of national security emergency exercises;

(10) With the assistance of the heads of other appropriate Federal departments and agencies, develop and maintain capabilities to assess actual attack damage and residual recovery capabilities as well as capabilities to estimate the effects of potential attacks on the Nation;

(11) Provide guidance to the heads of Federal departments and agencies on the appropriate use of defense production authorities, including resource claimancy, in order to improve the capability of industry and infrastructure systems to meet national security emergency needs;

(12) Assist the Secretary of State in coordinating the formulation and implementation of United States policy for NATO and other allied civil emergency planning, including the provision of:

(a) advice and assistance to the departments and agencies in alliance civil emergency planning matters;

(b) support to the United States Mission to NATO in the conduct of day-to-day civil emergency planning activities; and

(c) support facilities for NATO Civil Wartime Agencies in cooperation with the Departments of Agriculture, Commerce, Energy, State, and Transportation.

Sec. 1702. *Support Responsibilities.* The Director of the Federal Emergency Management Agency shall:

(1) Support the heads of other Federal departments and agencies in preparing plans and programs to discharge their national security emergency preparedness responsibilities, including, but not limited to, such programs as mobilization preparedness, continuity of government planning, and continuance of industry and infrastructure functions essential to national security;

(2) Support the Secretary of Energy, the Secretary of Defense, and the Members of the Nuclear Regulatory Commission in developing plans and capabilities for identifying, analyzing, mitigating, and responding to emergencies related to nuclear weapons, materials, and devices, including mobile and fixed nuclear facilities, by providing, inter alia, off-site coordination;

(3) Support the Administrator of General Services in efforts to promote a government-wide program with respect to Federal buildings and installations to minimize the effects of attack and establish shelter management organizations.

PART 18—General Services Administration

Sec. 1801. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of General Services shall:

(1) Develop national security emergency plans and procedures for the operation, maintenance, and protection of federally owned and occupied buildings managed by the General Services Administration, and for the construction, alteration, and repair of such buildings;

(2) Develop national security emergency operating procedures for the control, acquisition, leasing, assignment, and priority of occupancy of real property by the Federal Government, and by State and local governments acting as agents of the Federal Government, except for the military facilities and facilities with special nuclear materials within the jurisdiction of the Departments of Defense and Energy;

(3) Develop national security emergency operational plans and procedures for the use of public utility services (other than telecommunications services) by Federal departments and agencies, except for Department of Energy-operated facilities;

(4) Develop plans and operating procedures of government-wide supply programs to meet the requirements of Federal departments and agencies during national security emergencies;

(5) Develop plans and operating procedures for the use, in national security emergencies, of excess and surplus real and personal property by Federal, State, and local governmental entities;

(6) Develop plans, in coordination with the Director of the Federal Emergency Management Agency, with respect to Federal buildings and installations, to minimize the effects of attack and establish shelter management organizations.

Sec. 1802. *Support Responsibility.* The Administrator of General Services shall develop plans to assist Federal departments and agencies in operation and maintenance of essential automated information processing facilities during national security emergencies.

PART 19—National Aeronautics and Space Administration

Sec. 1901. *Lead Responsibility.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of the National Aeronautics and Space Administration shall coordinate with the Secretary of Defense to prepare for the use, maintenance, and development of technologically advanced aerospace and aeronautical-related systems, equipment, and methodologies applicable to national security emergencies.

PART 20—National Archives and Records Administration

Sec. 2001. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Archivist of the United States shall:

(1) Develop procedures for publication during national security emergencies of the **Federal Register** for as broad public dissemination as is practicable of presidential proclamations and Executive orders, Federal administrative regulations, Federal emergency notices and actions, and Acts of Congress;

(2) Develop emergency procedures for providing instructions and advice on the handling and preservation of records critical to the operation of the Federal Government in national security emergencies.

PART 21—Nuclear Regulatory Commission

Sec. 2101. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Members of the Nuclear Regulatory Commission shall:

(1) Promote the development and maintenance of national security emergency preparedness programs through security and safeguards programs by licensed facilities and activities;

(2) Develop plans to suspend any licenses granted by the Commission; to order the operations of any facility licensed under Section 103 or 104; Atomic Energy Act of 1954, as amended (42 U.S.C. 2133 or 2134); to order the entry into any plant or facility in order to recapture special nuclear material as determined under Subsection (3) below; and operate such facilities;

(3) Recapture or authorize recapture of special nuclear materials from licensees where necessary to assure the use, preservation, or safeguarding of such materials for the common defense and security, as determined by the Commission or as requested by the Secretary of Energy.

Sec. 2102. *Support Responsibilities.* The Members of the Nuclear Regulatory Commission shall:

(1) Assist the Secretary of Energy in assessing damage to Commission-licensed facilities, identifying useable facilities, and estimating the time and actions necessary to restart inoperative facilities;

(2) Provide advice and technical assistance to Federal, State, and local officials and private sector organizations regarding radiation hazards and protective actions in national security emergencies.

PART 22—Office of Personnel Management

Sec. 2201. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Personnel Management shall:

(1) Prepare plans to administer the Federal civilian personnel system in national security emergencies, including plans and procedures for the rapid mobilization and reduction of an emergency Federal workforce;

(2) Develop national security emergency work force policies for Federal civilian personnel;

(3) Develop plans to accommodate the surge of Federal personnel security background and pre-employment investigations during national security emergencies.

Sec. 2202. *Support Responsibilities.* The Director of the Office of Personnel Management shall:

(1) Assist the heads of other Federal departments and agencies with personnel management and staffing in national security emergencies, including facilitating transfers between agencies of employees with critical skills;

(2) In consultation with the Secretary of Defense and the Director of Selective Service, develop plans and procedures for a system to control any conscription of Federal civilian employees during national security emergencies.

PART 23—Selective Service System

Sec. 2301. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of Selective Service shall:

(1) Develop plans to provide by induction, as authorized by law, personnel that would be required by the armed forces during national security emergencies;

(2) Develop plans for implementing an alternative service program.

PART 24—Tennessee Valley Authority

Sec. 2401. *Lead Responsibility.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Board of Directors of the Tennessee Valley Authority shall develop plans and maintain river control operations for the prevention or control of floods affecting the Tennessee River System during national security emergencies.

Sec. 2402. *Support Responsibilities.* The Board of Directors of the Tennessee Valley Authority shall:

(1) Assist the Secretary of Energy in the development of plans for the integration of the Tennessee Valley Authority power system into nationwide national security emergency programs;

(2) Assist the Secretaries of Defense, Interior, and Transportation and the Chairman of the Interstate Commerce Commission in the development of plans for operation and maintenance of inland waterway transportation in the Tennessee River System during national security emergencies.

PART 25—United States Information Agency

Sec. 2501. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the United States Information Agency shall:

(1) Plan for the implementation of information programs to promote an understanding abroad of the status of national security emergencies within the United States;

(2) In coordination with the Secretary of State's exercise of telecommunications functions affecting United States diplomatic missions and consular offices overseas, maintain the capability to provide television and simultaneous direct radio broadcasting in major languages to all areas of the world, and the capability to provide wireless file to all United States embassies during national security emergencies.

Sec. 2502. *Support Responsibility.* The Director of the United States Information Agency shall assist the heads of other Federal departments and agencies in planning for the use of media resources and foreign public information programs during national security emergencies.

PART 26—United States Postal Service

Sec. 2601. *Lead Responsibility.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Postmaster General shall prepare plans and programs to provide essential postal services during national security emergencies.

Sec. 2602. *Support Responsibilities.* The Postmaster General shall:

(1) Develop plans to assist the Attorney General of the United States in the registration of nationals of enemy countries residing in the Untied States;

(2) Develop plans to assist the Secretary of Health and Human Services in registering displaced persons and families;

(3) Develop plans to assist the heads of other Federal departments and agencies in locating and leasing privately owned property for Federal use during national security emergencies.

PART 27—Veterans' Administration

Sec. 2701. *Lead Responsibilities.* In addition to the applicable responsibilities covered in Parts 1 and 2, the Administrator of Veterans' Affairs shall:

(1) Develop plans for provision of emergency health care services to veteran beneficiaries in Veterans' Administration medical facilities, to active duty military personnel and, as resources permit, to civilians in communities affected by national security emergencies;

(2) Develop plans for mortuary services for eligible veterans, and advise on methods for interment of the dead during national security emergencies.

Sec. 2702. *Support Responsibilities.* The Administrator of Veterans' Affairs shall:

(1) Assist the Secretary of Health and Human Services in promoting the development of State and local plans for the provision of medical services in national security emergencies, and develop appropriate plans to support such State and local plans;

(2) Assist the Secretary of Health and Human Services in developing national plans to mobilize the health care industry and medical resources during national security emergencies;

(3) Assist the Secretary of Health and Human Services in developing national plans to set priorities and allocate medical resources among civilian and military claimants.

PART 28—Office of Management and Budget

Sec. 2801. In addition to the applicable responsibilities covered in Parts 1 and 2, the Director of the Office of Management and Budget shall prepare plans and programs to maintain its functions during national security emergencies. In connection with these functions, the Director of the Office of Management and Budget shall:

(1) Develop plans to ensure the preparation, clearance, and coordination of proposed Executive orders and proclamations;

(2) Prepare plans to ensure the preparation, supervision, and control of the budget and the formulation of the fiscal program of the Government;

(3) Develop plans to coordinate and communicate Executive branch views to the Congress regarding legislation and testimony by Executive branch officials;

(4) Develop plans for keeping the President informed of the activities of government agencies, continuing the Office of Management and Budget's management functions, and maintaining presidential supervision and direction with respect to legislation and regulations in national security emergencies.

PART 29—General

Sec. 2901. Executive Order Nos. 10421 and 11490, as amended, are hereby revoked. This Order shall be effective immediately.

Ronald Reagan

THE WHITE HOUSE,
November 18, 1988.

[FR Doc. 88-27194
Filed 11-21-88; 1:08 pm]
Billing code 6718-21-M

Presidential Documents

Executive Order 12657 of November 18, 1988

Federal Emergency Management Agency Assistance in Emergency Preparedness Planning at Commercial Nuclear Power Plants

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 *et seq.*), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 *et seq.*), the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 *et seq.*), Reorganization Plan No. 1 of 1958, Reorganization Plan No. 1 of 1973, and Section 301 of Title 3 of the United States Code, and in order to ensure that plans and procedures are in place to respond to radiological emergencies at commercial nuclear power plants in operation or under construction, it is hereby ordered as follows:

Section 1. *Scope.* (a) This Order applies whenever State or local governments, either individually or together, decline or fail to prepare commercial nuclear power plant radiological emergency preparedness plans that are sufficient to satisfy Nuclear Regulatory Commission ("NRC") licensing requirements or to participate adequately in the preparation, demonstration, testing, exercise, or use of such plans.

(b) In order to request the assistance of the Federal Emergency Management Agency ("FEMA") provided for in this Order, an affected nuclear power plant applicant or licensee ("licensee") shall certify in writing to FEMA that the situation described in Subsection (a) exists.

Sec. 2. *Generally Applicable Principles and Directives.* (a) Subject to the principles articulated in this Section, the Director of FEMA is hereby authorized and directed to take the actions specified in Sections 3 through 6 of this Order.

(b) In carrying out any of its responsibilities under this Order, FEMA:

(1) shall work actively with the licensee, and, before relying upon its resources or those of any other Department or agency within the Executive branch, shall make maximum feasible use of the licensee's resources;

(2) shall take care not to supplant State and local resources. FEMA shall substitute its own resources for those of the State and local governments only to the extent necessary to compensate for the nonparticipation or inadequate participation of those governments, and only as a last resort after appropriate consultation with the Governors and responsible local officials in the affected area regarding State and local participation;

(3) is authorized, to the extent permitted by law, to enter into interagency Memoranda of Understanding providing for utilization of the resources of other Executive branch Departments and agencies and for delegation to other Executive branch Departments and agencies of any of the functions and duties assigned to FEMA under this Order; however, any such Memorandum of Understanding shall be subject to approval by the Director of the Office of Management and Budget ("OMB") and published in final form in the **Federal Register**; and

(4) shall assume for purposes of Sections 3 and 4 of this Order that, in the event of an actual radiological emergency or disaster, State and local authorities would contribute their full resources and exercise their authorities in

accordance with their duties to protect the public from harm and would act generally in conformity with the licensee's radiological emergency preparedness plan.

(c) The Director of OMB shall resolve any issue concerning the obligation of Federal funds arising from the implementation of this Order. In resolving issues under this Subsection, the Director of OMB shall ensure:

(1) that FEMA has utilized to the maximum extent possible the resources of the licensee and State and local governments before it relies upon its appropriated and lawfully available resources or those of any Department or agency in the Executive branch;

(2) that FEMA shall use its existing resources to coordinate and manage, rather than duplicate, other available resources;

(3) that implementation of this Order is accomplished with an economy of resources; and

(4) that full reimbursement to the Federal Government is provided, to the extent permitted by law.

Sec. 3. *FEMA Participation in Emergency Preparedness Planning.* (a) FEMA assistance in emergency preparedness planning shall include advice, technical assistance, and arrangements for facilities and resources as needed to satisfy the emergency planning requirements under the Atomic Energy Act of 1954, as amended, and any other Federal legislation or regulations pertaining to issuance or retention of a construction permit or an operating license for a nuclear power plant.

(b) FEMA shall make all necessary plans and arrangements to ensure that the Federal Government is prepared to assume any and all functions and undertakings necessary to provide adequate protection to the public in cases within the scope of this Order. In making such plans and arrangements,

(1) FEMA shall focus planning of Federal response activities to ensure that:

(A) adequate resources and arrangements will exist, as of the time when an initial response is needed, given the absence or inadequacy of advance State and local commitments; and

(B) attention has been given to coordinating (including turning over) response functions when State and local governments do exercise their authority, with specific attention to the areas where prior State and local participation has been insufficient or absent;

(2) FEMA's planning for Federal participation in responding to a radiological emergency within the scope of this Order shall include, but not be limited to, arrangements for using existing Federal resources to provide prompt notification of the emergency to the general public; to assist in any necessary evacuation; to provide reception centers or shelters and related facilities and services for evacuees; to provide emergency medical services at Federal hospitals, including those operated by the military services and by the Veterans' Administration; and to ensure the creation and maintenance of channels of communication from commercial nuclear power plant licensees or applicants to State and local governments and to surrounding members of the public.

Sec. 4. *Evaluation of Plans.* (a) FEMA shall consider and evaluate all plans developed under the authority of this Order as though drafted and submitted by a State or local government.

(b) FEMA shall take all actions necessary to carry out the evaluation referred to in the preceding Subsection and to permit the NRC to conduct its evaluation of radiological emergency preparedness plans including, but not limited to, planning, participating in, and evaluating exercises, drills, and tests, on a timely basis, as necessary to satisfy NRC requirements for demonstrations of off-site radiological emergency preparedness.

Sec. 5. *Response to a Radiological Emergency.* (a) In the event of an actual radiological emergency or disaster, FEMA shall take all steps necessary to ensure the implementation of the plans developed under this Order and shall coordinate the actions of other Federal agencies to achieve the maximum effectiveness of Federal efforts in responding to the emergency.

(b) FEMA shall coordinate Federal response activities to ensure that adequate resources are directed, when an initial response is needed, to activities hindered by the absence or inadequacy of advance State and local commitments. FEMA shall also coordinate with State and local governmental authorities and turn over response functions as appropriate when State and local governments do exercise their authority.

(c) FEMA shall assume any necessary command-and-control function, or delegate such function to another Federal agency, in the event that no competent State and local authority is available to perform such function.

(d) In any instance in which Federal personnel may be called upon to fill a command-and-control function during a radiological emergency, in addition to any other powers it may have, FEMA or its designee is authorized to accept volunteer assistance from utility employees and other nongovernmental personnel for any purpose necessary to implement the emergency response plan and facilitate off-site emergency response.

Sec. 6. *Implementation of Order.* (a) FEMA shall issue interim and final directives and procedures implementing this Order as expeditiously as is feasible and in any event shall issue interim directives and procedures not more than 90 days following the effective date of this Order and shall issue final directives and procedures not more than 180 days following the effective date of this Order.

(b) Immediately upon the effective date of this Order, FEMA shall review, and initiate necessary revisions of, all FEMA regulations, directives, and guidance to conform them to the terms and policies of this Order.

(c) Immediately upon the effective date of this Order, FEMA shall review, and initiate necessary renegotiations of, all interagency agreements to which FEMA is a party, so as to conform them to the terms and policies of this Order. This directive shall include, but not be limited to, the Federal Radiological Emergency Response Plan (50 *Fed. Reg.* 46542 (November 8, 1985)).

(d) To the extent permitted by law, FEMA is directed to obtain full reimbursement, either jointly or severally, for services performed by FEMA or other Federal agencies pursuant to this Order from any affected licensee and from any affected nonparticipating or inadequately participating State or local government.

Sec. 7. *Amendments.* This Executive Order amends Executive Order Nos. 11490 (34 *Fed. Reg.* 17567 (October 28, 1969)), 12148 (44 *Fed. Reg.* 43239 (July 20, 1979)), and 12241 (45 *Fed. Reg.* 64879 (September 29, 1980)), and the same are hereby superseded to the extent that they are inconsistent with this Order.

Sec. 8. *Judicial Review.* This Order is intended only to improve the internal management of the Executive branch, and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

Sec. 9. *Effective Date.* This Order shall be effective November 18, 1988.

Ronald Reagan

THE WHITE HOUSE,
November 18, 1988.

[FR Doc. 88-27195
Filed 11-21-88; 1:09 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12658 of November 18, 1988

President's Commission on Catastrophic Nuclear Accidents

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, including Public Law 100–408, and in order to establish a President's Commission on Catastrophic Nuclear Accidents, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 1), it is hereby ordered as follows:

Section 1. *Establishment.* (a) There is established the President's Commission on Catastrophic Nuclear Accidents ("Commission"). The Commission shall be composed of nine members who shall be appointed by the President. The members shall represent a broad range of views and interests and shall be appointed in a manner that ensures that not more than a mere majority of the members are of the same political party. Any vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) The President shall designate one of the members of the Commission as Chairperson to serve at the pleasure of the President.

Sec. 2. *Functions.* (a) The Commission shall conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as amended, subsection (e)(1), and shall submit to the Congress, after a review by the President, a final report of the study setting forth:

(1) recommendations for any changes in the laws and rules governing the liability or civil procedures that are necessary for the equitable, prompt, and efficient resolution and payment of all valid damage claims, including the advisability of adjudicating public liability claims through an administrative agency instead of the judicial system;

(2) recommendations for any standards or procedures that are necessary to establish priorities for the hearing, resolution, and payments of claims when awards are likely to exceed the amount of funds available within a specific time period; and

(3) recommendations for any special standards or procedures necessary to decide and pay claims for latent injuries caused by the nuclear incident.

(b) The Commission may request any Executive agency to furnish such information, advice, or assistance as it determines to be necessary to carry out its functions. Each such agency is directed, to the extent permitted by law, to furnish such information, advice, or assistance upon request by the Chairperson of the Commission.

Sec. 3. *Administration.* (a) The Chairperson of the Commission may appoint and fix the compensation of a staff of such persons as may be necessary to discharge the responsibilities of the study commission, subject to the applicable provisions of the Federal Advisory Committee Act and title 5, United States Code.

(b) To the extent permitted by law and requested by the Chairperson of the Commission, the Administrator of General Services shall provide the Commission with necessary administrative services, facilities, and support on a reimbursable basis.

(c) The Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency shall provide, to the extent permitted by law and subject to the availability of funds, the Commission with such facilities, support, funds, and services, including staff, as may be necessary for the effective performance of the functions of the Commission.

(d) Each member of the Commission may receive compensation at the maximum rate prescribed by the Federal Advisory Committee Act for each day such member is engaged in the work of the Commission. Each member may also receive travel expenses, including per diem in lieu of subsistence, under sections 5702 and 5703 of title 5, United States Code.

(e) The functions of the President under the Federal Advisory Committee Act that are applicable to the Commission, except the function of reporting annually to the Congress, shall be performed by the Administrator of General Services.

Sec. 4. *General.* (a) The final report required in section 2 shall be submitted to the Congress not later than August 20, 1990.

(b) The Commission shall terminate upon the expiration of the 2-month period beginning on the date on which the final report required in section 2 is submitted.

Ronald Reagan

THE WHITE HOUSE,
November 18, 1988.

[FR Doc. 88-27196
Filed 11-21-88; 1:10 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5912 of November 19, 1988

National Family Week, 1988

By the President of the United States of America

A Proclamation

The family, the birth- and dwelling-place of natural and self-sacrificing love, is the first of all social contracts. Rooted in the designs of the Creator and reinforced through the wise devices of the law, the family is the sum of a nation's heritage and the heart of a nation's strength. It is, moreover, the original mirror of mankind's hope for a world founded on bonds of tradition and affection, where the individual is cherished for his unalienable worth, the past revered for its accumulation of knowledge and insight, and the future honored for its power to restore and renew.

With all the diversity of its population, the United States has drawn unmatched strength from the confluence of peoples who value and celebrate the importance of family life. During this particular week, as families gather around the table of thanksgiving, it is especially appropriate that we pause as a Nation to acknowledge the blessings of love and fealty that families confer on their members and, through them, on the larger community.

It is also appropriate that we use this occasion to reflect on the truth that even though the family has proven to be the most durable of all institutions, its vitality is not guaranteed under all conditions. In the past few decades, as a host of new pressures have placed fresh strains on the health of family life in our society, a process of restoration has begun. Policymakers at all levels of government, and leaders in religion and the social sciences, are taking a closer look at the cultural and legal forces undermining the well-being of families. Recognition is at last being given to the fact that no strategy for reducing the tremendous costs of remedial efforts to combat crime and poverty will succeed if we fail to focus first on strengthening the family.

In the years to come, this process of rebuilding must continue. As it does so, we can all take heart in knowing that, to paraphrase a famous epigram, reports of the death of the family have been greatly exaggerated. For as long as the human heart wills to keep for itself a special place of understanding, welcome, and healing—in short, a hearth and a home—the family will endure and prosper.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week of November 20 through November 26, 1988, as National Family Week, and I call upon the people of the United States to observe this week with appropriate programs, gatherings, ceremonies, and other activities.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of November, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan

[FR Doc. 88-27199
Filed 11-21-88; 1:20 p.m.]
Billing code 3195-01-M

Presidential Documents

Proclamation 5913 of November 19, 1988

National Home Care Week, 1988

By the President of the United States of America

A Proclamation

Home care enhances life for people of all ages who are ill or disabled. The home should be the setting of first choice for care and treatment, because it is conducive to healing; in the home, family members can supply caring and love. The combination of professional services with such situations can add to the effectiveness of home health care. National Home Care Week, 1988, reminds us of the good that results when families and home care providers put into practice the respect we all owe to everyone in need of such care.

In recent years, home care programs have grown in number and in importance in health care delivery. We should all be grateful that these programs enable millions of Americans to receive fine care at home. The employees and volunteers of home care agencies, private and public alike, need our cooperation and attention as they work with family members across our land to offer the excellent care patients at home require and deserve.

The Congress, by Public Law 100–600, has designated the period of November 27 through December 3, 1988, as "National Home Care Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the period of November 27 through December 3, 1988, as National Home Care Week, and I call upon government officials, interested organizations and associations, and all Americans to observe this week with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of November, in the year of our Lord nineteen hundred and eighty-eight, and of the Independence of the United States of America the two hundred and thirteenth.

Ronald Reagan

[FR Doc. 88–27200
Filed 11–21–88; 1:21 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 53, No. 226
Wednesday, November 23, 1988

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Interest on Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation ("FDIC") is amending Part 329 of its regulations, 12 CFR Part 329, entitled "Interest on Deposits." Congress has recently given nonprofit political organizations the right to hold NOW accounts. The FDIC is amending Part 329 to reflect this change. The FDIC is also removing an obsolete footnote from Part 329. Part 329 applies to noninsured institutions in States that meet certain criteria. The footnote identifies Massachusetts as a State that meets the criteria, but Massachusetts no longer does so. Except to the extent necessary to conform Part 329 to statutory law, neither amendment changes the meaning of Part 329 in any way.

EFFECTIVE DATE: The amendments are effective on November 23, 1988.

FOR FURTHER INFORMATION CONTACT: Jules Bernard, Senior Attorney, Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC, 20429, (202) 898–3731.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The amendments do not create any new recordkeeping or reporting requirements, nor do they modify any existing reporting or recordkeeping requirements. A cost/benefit analysis (including a small-bank impact statement) is not required.

Discussion

Only certain depositors may hold so-called "NOW accounts." NOW accounts are savings accounts that afford unlimited check-writing privileges. Federal law specifies that natural persons, certain nonprofit organizations, and public units may hold NOW accounts. *See* 12 U.S.C. 1832. Footnote 2 of § 329.1(b)(3) quotes this statute.

Congress has recently amended this law. The amendment gives NOW-account privileges to a new kind of depositor: nonprofit organizations operated for political purposes. *See* Pub. L. 100–86, 109, 101 Stat. 552, 579 (1987). The FDIC is modifying the text of the quotation found in Footnote 2 to reflect this change.

Part 329 also says that it applies to certain noninsured banks—namely, to those that are located in a State where deposits held in uninsured banks and thrifts exceed 20% of all deposits (insured plus noninsured) held in all banks and thrifts in the State. *See* 12 U.S.C. 1828(g)(1).

Footnote 1 in § 329.1(a)(3) identifies Massachusetts as the only State that fulfills this test. Massachusetts does not do so any more, however. Accordingly, the FDIC is deleting Footnote 1, and is redesignating Footnote 2 as Footnote 1.

Finally, the FDIC is simplifying the citations of authority for Party 329, as provided in the Federal Register's Document Drafting Handbook.

Other Matters

Issuance as a Final Rule

The amendments conform Part 329 to the changes in 12 U.S.C. 1832. In other respects they express the FDIC's existing interpretations of Part 329. Inasmuch as the amendments do not affect the substance of Part 329, public comment is not necessary and good cause exists for making the amendments effective as final upon publication. *See* 12 U.S.C. 553(b).

Regulatory Flexibility Act Statement

The amendments will not have a significant economic impact on a substantial number of small entities. The provisions of the Regulatory Flexibility Act relating to an intitial and final regulatory flexibility analysis (5 U.S.C. 603 and 604) are not applicable.

List of Subjects in 12 CFR Part 329

Advertising, Banks, Banking, Interest rates.

The Board of Directors of the Federal Deposit Insurance Corporation hereby amends Part 329 of title 12 of the Code of Federal Regulations as follows:

PART 329—INTEREST ON DEPOSITS

1. The authority citation for Part 329 is revised to read as follows:

Authority: 12 U.S.C. 1819, 1828(g) and 1832(a).

§ 329.1 [Amended]

2. Paragraph (a)(3) of § 329.1 is amended by removing the footnote designation "1" at the end thereof and by removing footnote 1.

§ 329.1 [Amended]

3. Paragraph (b)(3) of § 329.1 is amended by redesignating footnote "2" at the end thereof as footnote "1" and reusing it to read as follows:

[1] Paragraph (1) of 12 U.S.C. 1832(a) authorizes banks to let certain depositors make withdrawals from interest-bearing deposits by negotiable or transferable instruments for the purpose of making transfers to third parties—*i.e.*, to hold deposits commonly called "NOW accounts."

Paragraph (2) of 12 U.S.C. 1832(a) provides: "Paragraph (1) shall apply only with respect to deposits or accounts which consist solely of funds in which the entire beneficial interest is held by one or more individuals or by an organization which is operated primarily for religous, philanthropic, charitable, educational, political, or other similar purposes and which is not operated for profit, and with respect to deposits of public funds by an officer, employee, or agent of the United States, any State, county, municipality, or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, any territory or possession of the United States, or any political subdivision thereof."

By order of the Board of Directors this 16th day of November, 1988.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 88–27076 Filed 11–22–88; 8:45 am]
BILLING CODE 6714–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Docket Nos. R-0640 and R-0644]

Regulation CC—Availability of Funds and Collection of Checks; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final interpretation; correction.

SUMMARY: The Board is correcting the final official Board interpretation concerning its Regulation CC, Availability of Funds and Collection of Checks, for the laws of the state of New Mexico.

FOR FURTHER INFORMATION CONTACT: Joseph R. Alexander, Senior Attorney, Legal Division (202–452–2489), or, for the hearing impaired only, Earnestine Hill or Dorothea Thompson, Telecommunications Device for the Deaf (202–452–3254).

SUPPLEMENTARY INFORMATION: On October 25, 1988, the Board adopted final interpretations under its Regulation CC concerning whether the laws of several state governing funds availability superseded or were preempted by the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.*) and the Board's regulation implementing that Act (Regulation CC—12 CFR Part 229). The interpretation appeared in the **Federal Register** on November 2, 1988 (53 FR 44325). An error appeared in the preemption determination concerning New Mexico law, and the Board is correcting that error with this notice.

As this is merely a technical correction that does not change the substance of Regulation CC, publication for comment is not required by 5 U.S.C. 553.

The following corrections are made to Appendix F to Regulation CC—Availability of Funds and Collection of Checks (12 CFR Part 229) published in the **Federal Register** on November 2, 1988 (53 FR 44325):

1. On page 44331, third column, sixth line, change "fourth" to "fifth".

2. On page 44331, third column, 11th line, change "sixth" to "seventh".

By order of the Secretary of the Board, acting pursuant to delegated authority (12 CFR 265(a)(11)), November 17, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88–27033 Filed 11–22–88; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 802

Premerger Notification; Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Notice of formal interpretation.

SUMMARY: On November 14, 1988, the Federal Trade Commission, with the concurrence of the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice, issued Formal Interpretation Number 14 pursuant to § 803.30 of the Commission's Premerger Notification Rules, 16 CFR 803.30. The formal interpretation discusses the effect of the CAB Sunset Act, 49 U.S.C. 1551(a)(7), on § 802.6(b) of the Commission's premerger notification rules, 16 CFR 802.6(b). Its primary purpose is to state that any airline merger or acquisition that is to be consummated on or after January 1, 1989, must be reviewed under the Hart-Scott-Rodino premerger notification program, regardless of whether the parties to it have sought or even obtained approval from the Department of Transportation before that time.

EFFECTIVE DATE: November 14, 1988.

FOR FURTHER INFORMATION CONTACT: John M. Sipple, Jr., Chief, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, DC 20580. Telephone: (202) 326–3100.

SUPPLEMENTARY INFORMATION: The text of Formal Interpretation Number 14 is set out below:

Interpretation Number 14

Formal Interpretation Pursuant to § 803.30, of the Premerger Notification Rules, 16 CFR 803.30, Concerning § 802.6(b) of the Rules, 16 CFR 802.6(b), As It May Relate To Transactions Between Air Carriers And Others Consummated On Or After January 1, 1989.

Mergers and similar transactions between airlines have for decades required federal regulatory approval prior to consummation. Until 1985, that authority was granted to the Civil Aeronautics Board, and since then, to the Department of Transportation (DOT). The Hart-Scott-Rodino premerger notification rules, 16 CFR 801.1 *et seq.*, have taken account of the prior approval requirement and have attempted to eliminate duplicative notification and review by providing in § 802.6(b)(1) that:

[A]ny transaction which requires approval by [DOT] prior to consummation, pursuant to section 408 of the Federal Aviation Act, 49 U.S.C. 1378, shall be exempt from the requirements of the act if copies of all information and documentary material filed with [DOT] are contemporaneously filed with the Federal Trade Commission and the Assistant Attorney General.

As of January 1, 1989, under the provisions of the CAB Sunset Act, 49 U.S.C. 1551(a)(7), DOT will no longer have authority over airline mergers. The Federal Trade Commission is issuing this formal interpretation in anticipation of the following question that may arise concerning the transition: Is a transaction for which DOT approval has been sought or obtained (and for which papers filed with DOT have been contemporaneously filed with the antitrust agencies) but which has not been consummated prior to January 1, 1989, exempt from premerger notification requirements pursuant to § 802.6(b)(1), or is a Hart-Scott-Rodino premerger notification required?

The Commission construes § 802.6(b)(1) as *not* exempting such a transaction; therefore, Hart-Scott-Rodino premerger notification would be required, assuming that the size thresholds are met and no other exemption applies. A transaction that takes place after January 1, 1989, is not "[a] transaction which requires approval by [DOT] prior to consummation" and thus does not come within the § 802.6(b)(1) exemption.

This interpretation is consistent with the most basic policy behind the Hart-Scott-Rodino Antitrust Improvements Act and DOT statutory authority over airline mergers. That policy is to assure that a merger or similar transaction will be subjected to a premerger competitive review. This interpretation eliminates the possibility that a transaction would avoid all premerger review if the parties sought, but did not receive, final approval by DOT of a merger or acquisition.

This interpretation limits the exemption provided by § 802.6 to transactions that are both approved by DOT and consummated by the parties prior to January 1, 1989. Without these limitations, approval of a transaction by DOT might enable the parties to complete a transaction without further premerger competitive review at a much later date when the likely competitive effects of the transaction could be significantly different. This interpretation thus meets the premerger notification rules' concern about the amount of change that can take place in the marketplace between the review and the completion of the transaction. (That concern is addressed by § 803.7 of the premerger notification rules, which

requires that the parties complete the acquisition for which notification was filed within a limited time following the Hart-Scott-Rodino review or seek another such review before they complete it.)

The Hart-Scott-Rodino premerger notification obligation that may arise for transactions for which DOT approval has been sought need not significantly delay such transactions. Parties may file Hart-Scott-Rodino premerger notification and seek early termination of their waiting period. If the antitrust agencies have, in the course of a DOT section 408 proceeding, actually completed their antitrust analysis of the proposed transaction, early termination could be granted promptly.

In addition, parties need not wait until January, 1989, to submit Hart-Scott-Rodino premerger notifications for proposed transactions. In the unique circumstances of this sunset law, the Commission and the Antitrust Division of the Department of Justice will review a premerger notification notwithstanding that the transaction would be exempt if consummated with DOT approval prior to January 1989. In other words, the parties may both claim the exemption provided for in § 803.6 and separately file for antitrust premerger review of the same transaction. If both procedures are invoked, the parties would be free to consummate a transaction before January 1989 with DOT approval even if the Hart-Scott-Rodino premerger notification waiting period had not terminated.

Section 802.6(b)(2) provides that acquisition of:

> (2) The following * * * assets will not be exempt under § 802.6(b)(1):
>
> (i) If the transaction is an acquisition of assets, the assets which are engaged in a business or businesses other than aeronautics or air transportation * * *;
>
> (ii) If the transaction is an acquisition of voting securities * * *, the business or businesses of the acquired issuer (and all entities which it controls) which are not engaged in aeronautics or air transportation * * *.

Because there will no longer be any transactions that satisfy the criteria of § 802.6(b)(1), § 802.6(b)(2) will no longer be invoked with respect to transactions that were previously covered by section 408 of the FAA. However, through informal interpretations pursuant to § 803.30, the Commission's Premerger Notification Office has used the method reflected in § 802.6(b)(2) to define the extent to which "assets held as a result of a transaction requiring approval" by other federal regulatory agencies are exempt from premerger notification requirements. The Premerger Notification Office will continue to apply this method to such other transactions consummated after December 31, 1988.

The Assistant Attorney General in charge of the Antitrust Division of the Department of Justice concurs in this formal interpretation.

By direction of the Commission.

Date: November 14, 1988.

Donald S. Clark,

Secretary.

[FR Doc. 88-27152 Filed 11-22-88; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 4

[Docket Nos. RM88-21-001 and RM86-5-002]

Amendment to Regulations Governing Exemption of Small Hydroelectric Power Projects of 5 Megawatts or Less

November 16, 1988.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of Denial of Rehearing.

SUMMARY: On October 17, 1988, California Save Our Streams Council (CSOS) filed a request for rehearing of Commission Order No. 503.[1] In that order, the Commission granted in part, denied in part, and dismissed in part a petition for rulemaking filed by CSOS. CSOS filed the petition for rulemaking on December 16, 1985, and renewed its request on January 12, 1988, as a petition for rehearing of the alleged "de facto denial" of its petition for rulemaking.

Since the request for rehearing does not raise any new issues of law, fact or policy that were not previously considered by the Commission in Order No. 503, the request for rehearing is denied by operation of law as of November 16, 1988.

EFFECTIVE DATE: November 16, 1988.

FOR FURTHER INFORMATION CONTACT: Roger E. Smith, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-8530

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in Room 1000 at the Commission's Headquarters, 825 North Capitol Street, NE, Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission, CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 357-8997. To access CIPS, set your communications software to use 300, 1200 or 2400 baud, full duplex, no parity, 8 data bits, and 1 stop bit. The full text of this notice will be available on CIPS for 10 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also located in Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Notice of Denial of Rehearing

November 16, 1988

On October 17, 1988, California Save Our Streams Council (CSOS) filed a request for rehearing of Commission Order No. 503.[1] At its meeting on November 16, 1988, the Commission agreed to take no action on the rehearing request. The rehearing request raises no questions of law, fact or policy not previously considered by the Commission. Accordingly, the Commission gives notice that, under section 313(a) of the Federal Power Act and Rule 713 of the Commission's Rules of Practice and Procedure, the request for rehearing is denied by operation of law as of November 16, 1988.

Lois D. Cashell,

Secretary.

[FR Doc. 88-27143 Filed 11-22-88; 8:45 am]

BILLING CODE 6717-01-M

[1] Amendment to Regulations Governing Exemption of Small Hydroelectric Power Projects of 5 Megawatts or Less, Order No. 503, 53 FR 36,562 (Sept. 21, 1988) III FERC Stats. & Regs. ¶ 30,830 (Sept. 15, 1988).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 85F-0202]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is correcting an error in the nomenclature and Chemical Abstracts Service Registry Number (CAS Reg. No.) for a food additive listed in 21 CFR 178.2010(b). The correction removes the entry "Tris(triethylene glycol)phosphate (CAS Reg. No. 9056–42–2)" and replaces it with "Phosphoric acid triesters with triethylene glycol (CAS Reg. No. 64502–13–2)", which more accurately describes the chemical identity of the additive.

DATES: Effective November 23, 1988; written objections and requests for a hearing by December 23, 1988.

ADDRESS: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 10, 1988 (53 FR 16558), FDA published a proposed rule to remove the entry "tris(triethylene glycol)phosphate (CAS Reg. No. 9056–42–2)" from the list of substances in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) and to alphabetically replace this listing with the entry "phosphoric acid triesters with triethylene glycol (CAS Reg. No. 64502–13–2)" as a stabilizer in ethylene terephthalate polymers intended for use in contact with food. The agency stated in the proposal that "tris(triethylene glycol)phosphate" is the name of only one of the numerous compounds represented by the correct structural formula for subject additive:

$$[HO(CH_2CH_2O)_x]_yP(OH)_{3-y}$$

where y=3 and x=3, on an average.

The agency received no comments on its proposal. The agency is, therefore, adopting the proposal as a final rule without any changes.

The agency has previously considered the environmental effects of this rule, as announced in the proposed rule of May 10, 1988. No new information or comments have been received that would affect the agency's previous determination that there is no significant impact upon the human environment and that an environmental impact statement is not required.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

Any person who will be adversely affected by this regulation may at any time on or before December 23, 1988, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for 21 CFR Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. Section 178.2010 is amended in paragraph (b) by removing the entry for "Tris(triethylene glycol)phosphate (CAS Reg. No. 9056–42–2)" and alphabetically adding a new entry in the table to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* *	* * *
Phosphoric acid triesters with triethylene glycol (CAS Reg. No. 64502–13–2)	At levels not to exceed 0.1 percent by weight of polyethylene phthalate polymers complying with § 177.1630 of this chapter, such that the polymers contact foods only of Type VI–B described in Table 1 of § 176.170(c) of this chapter.
* *	* * *

Dated: November 14, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88–27052 Filed 11–22–88; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 515

Cuban Assets Control Regulations

AGENCY: Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule revises the Cuban Assets Control Regulations, 31 CFR Part 515 ("the Regulations"). This rule is designed to reduce the flow of hard currency to Cuba through transactions with persons subject to the jurisdiction of the United States. This rule also revises the regulations pertaining to telecommunications and foreign subsidiary transactions with Cuba to reflect current policy in these areas, and clarifies the rule with respect to use of charge cards, including debit and credit cards, in connection with transactions related to travel within Cuba.

EFFECTIVE DATE: December 23, 1988.

FOR FURTHER INFORMATION CONTACT: William B. Hoffman, Acting Chief Counsel (telephone: 202/376–0412) or Steven I. Pinter, Chief of Licensing (telephone: 202/376–0236), Office of Foreign Assets Control, Department of

the Treasury, 1331 G Street NW., Washington, DC 20220.

SUPPLEMENTARY INFORMATION: This rule is designed to reduce the flow of hard currency to Cuba through transactions with persons subject to the jurisdiction of the United States. It: (1) Requires that persons engaged in service transactions related to travel to Cuba obtain specific licenses for such transactions and provides that such licenses will be available only for persons who do not participate in discriminatory practices of the Cuban government against residents and citizens of the United States; and (2) requires that any person wishing to provide services related to the collection or forwarding of remittances to close relatives in Cuba obtain a license from the Office of Foreign Assets Control.

In addition, this rule deletes the requirement of paragraph (c) of § 515.559 of the Regulations that a foreign affiliate have no more than a minority of officers or directors who are also officers and directors of a person within the United States in order to receive a license to engage in trade with Cuba.

The rule clarifies Treasury's long-standing rule that charge cards, including but not limited to debit and credit cards, may not be used in transactions related to travel within Cuba. In addition, it contains a number of administrative, clarifying, and conforming revisions to the Regulations.

Because the Regulations involve a foreign affairs function, the provisions of the Administrative Procedure Act, 5 U.S.C. 553, requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required under the Administrative Procedure Act or any other law, the provisions of Executive Order 12291 of February 17, 1981, are inapplicable. Because no notice of proposed rulemaking is required under the Administrative Procedure Act or any other law, the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are also inapplicable.

This rule is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in this rule have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under control number 1505-0096.

Comments concerning the collections of information and the accuracy of the estimated average annual reporting burden, and suggestions for reducing the burden, should be directed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, attention: Desk Officer for the Office of Foreign Assets Control, U.S. Department of the Treasury, with copies to the Office of Information Resources Management, Department of the Treasury, 15th and Pennsylvania Avenue N.W., Washington, DC 20220.

The collections of information in this rule are in §§ 515.560(i) and 515.563(d) of Title 31 of the Code of Federal Regulations. This information is required by the Office of Foreign Assets Control to determine whether organizations engaging in secondary transactions related to Cuban travel or remittances to Cuban nationals are in compliance with the Regulations. The likely respondents are business or other for-profit institutions, including small businesses.

The estimated total annual reporting burden is 1250 hours. The estimated average annual burden hours per respondent is one hour. The estimated number of respondents is 250, while the estimated annual frequency of responses is five.

List of Subjects in 31 CFR 515

Administrative practice and procedure, Cuba, Currency, Foreign investment in the United States, Foreign trade, Reporting and recordkeeping requirements, Securities, Travel and transportation expenses.

PART 515—[AMENDED]

1. The "Authority" citation for Part 515 continues to read as follows:

Authority: 50 U.S.C. App. 5, as amended; 22 U.S.C. 2370(a); Proc. 3447, 27 FR 1085, 3 CFR 1959–1963 Comp. p. 157; E.O. 9193, 7 FR 5205, 3 CFR 1938–1943 Cum. Supp. p. 1174; E.O. 9989, 13 FR 4891, 3 CFR 1943–1948 Comp. p. 748.

§ 515.559 [Amended]

2. Paragraph (c) of § 515.559 is revised to read as follows:

* * * * *

(c) Specific licenses issued pursuant to the policies set forth in this section do not authorize any person within the United States to engage in, participate in, or be involved in a licensed transactions with Cuba or Cuban nationals. Such involvement includes, but is not limited to, assistance or participation by a U.S. parent firm, or any officer or employee thereof, in the negotiation or performance of a transaction which is the subject of a license application. Such participation is a ground for denial of a license application, or for revocation of a license. To be eligible for a license under this section, the affiliate must be generally independent, in the conduct of transactions of the type for which the license is being sought, in such matters as decision-making, risk-taking, negotiation, financing or arranging of financing, and performance.

§ 515.560 [Amended]

3. Paragraph (c) introductory text of § 515.560 is revised to read as follows:

* * * * *

(c) The following transactions by persons licensed under paragraphs (a) and (b) of this section are authorized in connection with travel to, from, and within Cuba:

* * * * *

4. Subparagraphs (4) and (5) of paragraph (c) of § 515.560 are removed. Subparagraph (6) is redesignated as subparagraph (4).

5. Paragraph (d)(1) of § 515.560 is revised to read as follows:

* * * * *

(d)(1) Unless specifically provided, neither this section nor any general or specific license contained in or issued pursuant to this section authorizes persons subject to U.S. jurisdiction to utilize charge cards, including but not limited to debit or credit cards, for expenditures to Cuba. Such transactions are prohibited by § 515.201 of this part.

* * * * *

6. Paragraph (d)(2) of § 515.560 is revised to read as follows:

(d) * * *

(2) This section does not authorize the processing and payment by persons subject to U.S. jurisdiction, such as charge card issuers or intermediary banks, of charge card instruments (e.g., vouchers, drafts, or sales receipts) for expenditures in Cuba, and does not authorize a charge card issuer, or a foreign charge card firm owned or controlled by U.S. persons, to deal with a Cuban enterprise, a Cuban national, or a third-country party, such as a franchisee, in connection with the extension of charge card services to any person in Cuba.

7. Paragraph (i) is added to § 515.560 to read as follows:

* * * * *

(i)(1) *Specific lisenses for persons engaged in service transactions related to travel to Cuba.*—(i) *Applicability of specific license requirement; definition of "travel service provider."* The following persons wishing to provide services in connection with travel to Cuba are "travel service providers" for purposes of this part: Travel agents, ticket agents, commercial and non-commercial organizations that arrange travel to Cuba; tour operators; persons arranging through transportation to Cuba; persons chartering an aircraft or vessel on behalf of others in Cuba; and persons arranging hotel accommodations, ground transportation, local tours, and similar travel activities on behalf of others in Cuba. Travel service providers must obtain a specific license from the Office of Foreign Assets Control before providing services with respect to travel to Cuba. The list stated above should not be considered exhaustive, as other persons may be "travel service providers" within the meaning of this part. Opinions may be obtained from the Office of Foreign Assets Control concerning the applicability of this licensing requirement in individual cases. Carrier service providers are dealt with separately in paragraph (i)(2) of this section.

(ii) *Terms and conditions of licenses.* Licenses will be issued in appropriate cases for a one-year period, subject to annual renewal. Licenses will be issued only upon the applicant's written affirmation and subsequent demonstration that it does not participate in discriminatory practices of the Cuban government against certain residents and citizens of the United States. Examples of such practices include, but are not limited to, charging discriminatory rates for air travel or requiring payment for services, such as hotel accommodations and meals, not desired, planned to be utilized, or actually utilized, based on such characteristics as race, color, religion, sex, citizenship, place of birth, or national origin. Specific licenses issued pursuant to this paragraph do not permit travel service providers to provide services in connection with individuals' transactions incident to travel which are prohibited by this part.

(iii) *Initial applications for licenses.* The initial application for a license shall contain:

(A) The applicant organization's name, address, telephone number, and the name of an official of the applicant organization responsible for its licensed services;

(B) The applicant's state of incorporation, if any, the address of its principal place of business and all branch offices, the identity and ownership percentages of all shareholders or partners, and the identity and position of all principal officers and directors;

(C) Copies of any by-laws, articles of incorporation, management agreements, or other documents pertaining to the organization, ownership, control, or management of the applicant; and

(D) A report on the forms and other procedures used to ensure that each customer is in full compliance with U.S. law implementing the Cuban embargo and does in fact qualify for one of the general licenses of this section, or has received a specific license from the Office of Foreign Assets Control pursuant to this section. In the case of a customer traveling pursuant to general license, the applicant must demonstrate that it requires each customer to attest, in a signed statement, to his qualifications for the particular general license claimed. The statement must provide facts supporting the customer's belief that he qualifies for the general license. In the case of a customer traveling under a specific license, the applicant must demonstrate that it requires the customer to furnish it with a copy of the license. The copy of the signed statement or the specific license must be maintained on file with the applicant.

(iv) *Applications for renewal of licenses.* Subsequent applications for renewal shall indicate whether any changes with respect to the information provided in the initial application for a license have occurred and shall provide, with respect to the past twelve-month period:

(A) The number of customers who traveled to Cuba under the applicant's auspices;

(B) The number of customers by license category;

(C) The gross revenue generated from such business; and

(D) The amount of money provided to Cuba or nationals of Cuba in connection with the applicant's business and the purposes for which the money was provided.

(v) *Required reports.* (A) Each specific license shall require that the licensee furnish quarterly reports to the Department of the Treasury, Office of Foreign Assets Control, 1331 G Street NW., Washington, DC 20220 during the term of the license. Such reports shall contain the same information as requested in paragraph (i)(1)(iv) of this section for the annual renewal applications, but shall cover only the three-month period immediately preceding the date of the report.

(B) While the names and addresses of individual travelers need not be submitted with initial and subsequent applications for licenses or quarterly reports, this information must be retained on file with all other information required by § 515.601 of this part, beginning on the effective date of this section. These records must be furnished to the Office of Foreign Assets Control on demand pursuant to § 515.602 of this part.

(vi) *Presentation of passenger lists.* Tour operators, persons operating an aircraft or vessel, or persons chartering an aircraft or vessel on behalf of others, for travel to, from, and within Cuba must furnish the U.S. Customs Service on demand a list of passengers on each flight or voyage to, from, and within Cuba.

(2) *Specific licenses for persons engaged in certain carrier service transactions related to travel to Cuba; definition of "carrier service provider".*—(i) *Applicability of specific license requirements.* Persons subject to U.S. jursidiction wishing to provide carrier services by aircraft or vessels incidental to their non-scheduled flights or voyages to, from, or within Cuba are "carrier service providers" for purposes of this part. Carrier service providers must obtain a specific license from the Office of Foreign Assets Control before providing services with respect to non-schedule flights or voyages to, from, or within Cuba.

(ii) *Terms and conditions of licenses.* Licenses will be issued in appropriate cases for a one-year period, subject to annual renewal.

(iii) *Initial applications for licenses.* The initial application for a license shall contain:

(A) The applicant's name, adress, telephone number, and the name of an official of the applicant organization responsible for its licensed services;

(B) The applicant's state of incorporation, if any, the address of its principal place of business and all branch offices, the identity and ownership percentages of all shareholders or partners, and the identity and position of all principal officers and directors;

(C) Copies of any by-laws, articles of incorporation, management agreements, or other documents pertaining to the organization, ownership, control, or management of the applicant; and

(D) A report on the forms and other procedures used to ensure that each

customer is in full compliance with U.S. law implementing the Cuban embargo and does in fact qualify for one of the general licenses of this section, or has received a specific license from the Office of Foreign Assets Control pursuant to this section. In the case of a customer traveling pursuant to general license, the applicant must demonstrate that it requires each customer to attest, in a signed statement, to his qualifications for the particular general license claimed. The statement must provide facts supporting the customer's belief that he qualifies for the general license. In the case of a customer traveling under a specific license, the applicant must demonstrate that it requires the customer to furnish it with a copy of the license. The copy of the signed statement or the specific license must be maintained on file with the applicant.

(iv) *Applications for renewals of licenses.* Subsequent applications for renewal shall indicate whether any changes with respect to the above information have occurred and shall provide, with respect to the past twelve-month period:

(A) The number of persons it carried to or from Cuba;

(B) The gross revenue generated from such business; and

(C) The amount of money provided to Cuba or nationals of Cuba in connection with the applicant's business and the purposes for which the money was provided.

(v) *Required reports.* (A) Each specific license shall require that the licensee furnish quarterly reports to the Department of the Treasury, Office of Foreign Assets Control, 1331 G Street NW., Washington, DC 20220 during the term of the license. Such reports shall contain the same information as requested above for the annual renewal applications, but shall cover only the three-month period immediately preceding the date of the report.

(B) While the names and addresses of individual travelers need not be submitted with initial and subsequent applications for licenses or quarterly reports, this information must be retained on file with all other information required by § 515.601 of this part, beginning on the effective date of this section. These records must be furnished to the Office of Foreign Assets Control on demand pursuant to § 515.602 of this part.

8. Paragraph (g) of § 515.560 is revised to read as follows:

* * * * *

(g) This section does not authorize any person subject to the jurisdiction of the United States to make any investment in Cuba, establish any branch or agency in Cuba, or transfer any property to Cuba, except transfers by or on behalf of individual or group travelers authorized pursuant to paragraph (c) of this section.

9. Paragraph (k) is added to § 515.560 to read as follows:

* * * * *

(k) Carriage to or from Cuba of any merchandise, cargo or gifts, other than those permitted to individual travelers as accompanied baggage is not authorized for persons subject to the jurisdiction of the United States.

§ 515.563 [Amended]

10. Subparagraph (d) is added to § 515.563 to read as follows:

* * * * *

(d) *Specific licenses for persons engaged in secondary transactions relating to remittances to close relatives*—(1) *Applicability of specific license requirement.* Persons subject to U.S. jurisdiction, including persons who provide payment forwarding services and non-commercial organizations acting on behalf of donors, who wish to provide services in connection with the collection or forwarding of remittances authorized pursuant to this section must obtain a specific license from the Office of Foreign Assets Control. Depository institutions, as defined in paragraph (d)(6) of this section, are exempt from this requirement.

(2) *Terms and conditions of licenses.* Licenses will be issued in appropriate cases for a one-year period, subject to annual renewal.

(3) *Initial applications for licenses.* The initial application for a license shall contain—

(i) The applicant's name, address, telephone number, and the name of an official of the applicant organization responsible for its licensed services;

(ii) Its state of incorporation, if any, the address of its principal place of business and all branch offices, the identity and ownership percentages of all shareholders and partners, and the identity and position of all principal officers and directors;

(iii) Copies of any by-laws, articles of incorporation, management agreements, or other documents pertaining to the organization, ownership, control, and management of the applicant; and

(iv) A report on (A) the forms, account books, and other recordkeeping procedures used to determine whether each customer has exceeded the annual ceiling on remittances to any one household or payee established in this section, or sent remittances to persons other than close relatives as defined in paragraph (b) of this section; and (B) the method by which remittances are sent to Cuba and the procedures used by the applicant to ensure that the remittances are received by the persons intended.

(4) *Applications for renewal of licenses.* Subsequent applications for renewal shall indicate whether any changes with respect to the information provided in the initial application have occurred and shall provide, with respect to the last twelve-month period:

(i) The number of persons sending remittances;

(ii) The number of recipients in Cuba;

(iii) The total dollar volume of remittances handled by the applicant;

(iv) The gross revenue generated from such business; and

(v) The amount of money provided to Cuba or nationals of Cuba in connection with the applicant's business, and the purposes for which the money was provided.

(5) *Required reports.* (i) Each specific license shall require that the licensee furnish quarterly reports to the Department of the Treasury, Office of Foreign Assets Control, 1331 G Street NW., Washington, DC 20220 during the term of the license. Such reports shall contain the same information as requested in paragraph (d)(4) of this section for the annual renewal applications, but shall cover only the three-month period immediately preceding the date of the report.

(ii) While the names and addresses of remitters, the number and amount of each remittance, and the name and address of each recipient need not be submitted with each license application or report, this information must be retained on file as required by § 515.601 of this part, beginning on the effective date of this section. These records must be furnished to the Office of Foreign Assets Control on demand pursuant to § 515.602 of this part. Failure to comply with these requirements will result in revocation of the license granted pursuant to this section, as provided in § 515.805 of this part.

(6) *Depository Institution.* For purposes of this section, the term "depository institution" means any of the following:

(i) An insured bank as defined in section 3 of the Federal Deposit Insurance Act;

(ii) An insured institution as defined in section 408(a) of the National Housing Act;

(iii) An insured credit union as defined in section 101 of the Federal Credit Union Act; or

(iv) Any other institution that is carrying on banking activities chartered by a Federal or state banking authority.

§ 515.701 [Amended]

11. Paragraph (c) of § 515.701 is added to read as follows:

* * * * *

(c) In addition, persons convicted of violation of the Trading with the Enemy Act and 18 U.S.C. 1001 may be subject to such greater penalties as set forth in 18 U.S.C. 3263.

12. The following sentence is added to the end of § 515.901:

§ 515.901 [Amended]

* * * The information collection requirements in § 515.560(i) and 515.563(d) have been approved by the Office of Management and Budget under the Paperwork Reduction Act and assigned control number 1505-0096.

Dated: November, 1988.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: November 8, 1988.

Salvatore R. Martoche,

Assistant Secretary (Enforcement).

[FR Doc. 88-27089 Filed 11-18-88; 3:43 pm]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3439-5]

Approval and Promulgation of Implementation Plans, Tennessee; Approval of SIP Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On January 6, 1988, the State of Tennessee submitted several regulations to EPA as State Implementation Plan (SIP) revisions. Today three of the regulations, 1200-3-6-.05(4), 1200-3-19-.11(3)(b), and 1200-3-19-.12(2)(g) are being approved. Rule 1200-3-6-.05(4) deals with opacity monitor specifications. Rules 1200-3-19-.11(3)(b) and 1200-3-19-.12(2)(g) delete specific requirements and emission limits for certain source types from the regulations because the sources affected have closed.

DATES: This action will be effective on January 23, 1989, unless notice is received by December 23, 1988, that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of materials submitted by the State may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365.

Division of Air Pollution Control, Tennessee Department of Health and Environment, Customs House, 4th Floor, 701 Broadway, Nashville, Tennessee 37219.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalyn D. Hughes, Air Programs Branch, EPA Region IV, at the above address and telephone number (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: On January 6, 1988, the State of Tennessee submitted to EPA as revisions to its State Implementation Plan (SIP) nine regulations. Four regulations, 1200-3-24 (Stack Heights), 1200-3-18-.02(m) (Volatile Organic Compounds) and 1200-3-16-.01(6)(c) and 1200-3-16-.21 (New Source Performance Standards), were addressed in other notices. Rules 1200-3-9.04(1)(c) (Construction and Operating Permits: Exemptions) and 1200-3-19.05(4) (Operating Permits and Emission Limiting Conditions) are revisions to regulations that were never federally approved. Therefore, no action will be taken on those revisions.

This notice addresses the remaining regulations, 1200-3-6-.05(4) (Non-Process Visible Emissions: Wood Fired Fuel Burning), 1200-3-19-.11(3)(b) (Particulate Matter Emission Regulations for the Bristol Nonattainment Area) and 1200-3-19.12(2)(g) (Particulate Matter Emission Regulations for Air Contaminant Sources in or Significantly Impacting the Particulate Nonattainment Areas in Campbell County).

The revision to Rule 1200-3-6-.05(4) deleted the reference to Rule 1200-3-5-.05 (Standard Certain Existing Sources), which specified the types of opacity monitors, and replaced it with the Federal Register cite (48 FR 13327) dealing with opacity monitor specifications. Rule 1200-3-19-.11(3)(b) has been deleted in its entirety. The rule required all magnetite processing plants to perform certain activities before they ceased operation by July 1, 1979. The source, Reese Viking (later Viking Oil), a woodworking operation, ceased operation by late 1978 and moved to Virginia. This compliance schedule requirement is no longer necessary. Rule 1200-3-19-.12(2)(g) has also been deleted in its entirety. Only one source, Carborundum, a silicon carbide manufacturing plant, was affected by the particulate emission standards in the rule and this source ceased operation by mid-1980. Tennessee determined that this rule was no longer needed in their regulations.

Final Action: Since Rules 1200-3-6-.05(4), 1200-3-19-.11(3)(b) and 1200-3-.12(2)(g) are consistent with EPA policy and requirements, they are hereby approved. The public should be advised that this action will be effective 60 days from the date of this Federal Register notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and two subsequent notices will be published before the effective date. One notice will withdraw the final action and another will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 23, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

Under 5 U.S.C. section 605(b), I certify that these SIP revisions will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter.

Note: Incorporation by reference of the State Implementation Plan for the State of Tennessee was approved by the Director of the Federal Register on July 1, 1982.

Dated: August 26, 1988.

Lee M. Thomas,

Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7401-7642.

Subpart RR—Tennessee

2. Section 52.2220 is amended by adding paragraph (c)(95) to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(c) * * *

(95) Rules 1200–3–6–.05(4), Wood Fired Fuel Burning Equipment, 1200–3–19–.11(3)(b), Particulate Matter Emissions Regulations for the Bristol Nonattainment Area, and 1200–3–19–.12(2)(g), Particulate Matter Emission Regulations for Air Contaminant Sources in or Significantly Impacting the Particulate Nonattainment Control Areas in Campbell County, which were submitted January 6, 1988.

(i) Incorporation by reference.

(A) Rule 1200–3–6–.05(4), Wood Fired Fuel Burning Equipment, which is State-effective, May 30, 1987.

(B) Rule 1200–3–19–.11(3)(b), Particulate Matter Emission Regulations for the Bristol Nonattainment Area, which is State-effective May 30, 1987.

(C) Rule 1200–3–19–.12(2)(g), Particulate Matter Emission Regulations for Air Contaminant Sources in or Significantly Impacting the Particulate Nonattainment Control Areas in Campbell County, which is State-effective May 30, 1987.

(ii) Other material—none.

[FR Doc. 88–19886 Filed 11–22–88; 8:45 am]
BILLING CODE 6560–50–M

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40 CFR Part 81

[FRL–3480–4]

Designation of Areas of Air Quality Planning Purposes; Ohio: Attainment Status Designations

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Final rule.

SUMMARY: USEPA is taking final action to disapprove Ohio's request to redesignate Cuyahoga County from nonattainment to attainment for the carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS). This action is necessary because the data available indicate that this area is still a nonattainment area for CO. As a result of this action, the current nonattainment designation of Cuyahoga County, as codified in 40 CFR 81.336 remains the same.

EFFECTIVE DATE: This final rulemaking becomes effective on December 23, 1988.

ADDRESSES: Copies of the redesignation request and supporting air quality data are available at the following addresses:

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5 AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

Ohio Environmental Protection Agency, Office of Air Pollution Control, 1800 WaterMark Drive, P.O. Box 1049, Columbus, Ohio 43266–0149.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio, (312) 886–6088.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 9006), USEPA designated Cuyahoga County (Cleveland) as nonattainment for CO. On May 31, 1985, the State of Ohio submitted a redesignation request to USEPA requesting that Cuyahoga County be redesignated from nonattainment to attainment of the CO NAAQS. Additional technical support was submitted by the State on September 10, 1985.

The primary NAAQS for CO is violated if, more than once in a calendar year, maximum CO concentrations exceed either: (1) The maximum allowable 8-hour concentration of 9 parts per million of air (9 ppm), or (2) the maximum allowable 1-hour concentration of 35 ppm. Generally, the most recent 2 years (8 consecutive quarters) of quality assured, representative air quality data are examined to ensure that it is violation free before approving a redesignation request for CO.

According to the State's submittal, CO was monitored at three sites in Cuyahoga County during the period April 1983 through March 1985. These sites are: 8907 Carnegie Avenue; 3500 East 147th Street; and 1925 St. Clair Avenue. The monitoring at 8907 Carnegie Avenue was terminated in early 1984. The monitor was moved from this site to the 1925 St. Clair Avenue site.

USEPA reviewed the State's request, which included technical information from the City of Cleveland, and determined that it does not meet USEPA's redesignation policy.[1]

On July 14, 1987 (52 FR 26410), USEPA proposed to disapprove the redesignation based on the following analysis:

1. Two years of violation free CO data are not available for the 8907 Carnegie Avenue site. The quality assured data for this site shows multiple exceedances for the CO standard for 1983. The State of Ohio and the City of Cleveland attempted to prove that these exceedances were due to a temporary tire fire in North Bloomfield, Ohio. Based on a conservative dispersion modeling analysis, USEPA believes that the State had not substantiated this assertion and believes that the tire fire did not significantly contribute to violations at the 8907 Carnegie Avenue site.

2. USEPA considers the 1983 Carnegie Avenue CO data to be valid for purposes of denying the redesignation of Cuyahoga County.

In the September 12, 1985, submittal, the State of Ohio stated that USEPA approved the relocation of the 8907 Carnegie Avenue monitor to the 1925 St. Clair Avenue site. The State of Ohio had recommended that all previous data from the Carnegie Avenue site should not be considered.

Although monitors may be relocated from time-to-time for various reasons, USEPA does not agree that valid data from the older sites can be discounted. This data can be discounted only if a demonstration is made that the monitor malfunctioned, causing all the data to be non-quality assured. The State of Ohio has not made such a demonstration for the 1983 data at the Carnegie Avenue site. The State has not modeled the impacts of mobile source emissions in the vicinity of the Carnegie Avenue site to demonstrate that the 1983 exceedances could not have been caused by these emissions. As a result, USEPA considered the 1983 Carnegie Avenue CO data to be valid for purposes of denying a redesignation.

3. The analysis of average daily traffic (ADT) from throughout Cuyahoga County shows that the monitors (including the Carnegie Avenue site) may not be in the areas of the highest CO concentrations. Microscale modeling is necessary to evaluate possible worst-case CO concentrations at other potential hotspots.

The St. Clair site has a significantly lower associated traffic level than the Carnegie Avenue site. It is reasonable to infer from the available traffic data (based on CO concentrations at the Carnegie Avenue site and its associated traffic level) that some hotspot modeling would have to be done to refine the area that is nonattainment for CO.

4. The State has not fully implemented the control strategy approved by the USEPA. USEPA's April 21, 1983, redesignation policy memorandum from Sheldon Meyers, Director, Office of Air Quality Planning and Standards, to USEPA Air Management Directors states that one prerequisite to approving a redesignation request is a demonstration that an air pollution control plan fully approved by USEPA

[1] For a detailed discussion of USEPA's redesignation policies applicable to this action, see the notice of proposed rulemaking dated July 14, 1987 (52 FR 26410).

has been implemented. The most recent approved CO control plan for Cleveland is the 1979 SIP (October 31, 1980; 45 FR 72122). The 1979 Cleveland CO SIP committed the State of Ohio to implement an I/M program in the Cleveland urban area and this program has not been implemented (nor has the I/M requirement been deleted from the plan).

Based on all of the above, USEPA proposed to disapprove the Cuyahoga County redesignation for CO.

Public Comments

Only one set of public comments were received in response to USEPA's July 14, 1987, proposed rulemaking. Each of the issues raised are discussed below along with USEPA's response.

Comment

In the period since 1980, the OEPA has continuously monitored CO at two sites in Cuyahoga County. The monitoring sites have been approved by the OEPA and have complied with Federal requirements.

Response

The CO monitoring sites used since 1980 were approved by the OEPA. These sites were also approved by the USEPA as meeting siting requirements with regards to placement relative to local CO sources and buildings. USEPA, however, in comments on Ohio's Fiscal Year 1984 and Fiscal Year 1985 grant requests, recommended that a CO monitor be located in the Central Business District (CBD) of Cleveland, where higher traffic densities and lower vehicle speeds would be expected to result in higher CO concentrations. Monitoring data at 1020 Euclid (a CBD site) in 1986 indicated two exceedances (13.2 and 10.1 ppm) of the eight-hour CO standard. This is a standard violation. In addition, line source dispersion modelling and evaluation of daily traffic levels indicate the potential for several non-monitored CO standard violation sites.

Comment

Since 1982, exceedances of the CO standard have been monitored only six times and only two of these exceedances contributed to a violation of the standard. The area has been in attainment 99.9 percent of the time since 1982. Further, there have been no monitored violations since 1983.

USEPA Response

Although it is agreed there have been few monitored exceedances since 1982, there have been monitored standard violations both in 1983 and in 1986. In light of this, approving a redesignation to attainment is not appropriate.

Contrary to the data supplied by the commenter, two exceedances of the eight-hour standard were monitored at 1020 Euclid in 1986. The commenter contends that the highest of the two exceedances was due to a temporary CO discharge from an LTV Steel blast furnace. However, modeling conducted by the OEPA, referenced in a January 9, 1987, letter from Patricia Walling, OEPA, to Gary Nied, Cleveland Air Pollution Control, failed to support the contention that the CO discharge from the blast furnace caused a monitored exceedance of the CO standard. The modeling showed very low CO concentration impacts at the monitor.

It should also be noted that monitors recording violations of the standard (8907 Carnegie Avenue and 1020 Euclid) have not been maintained for sufficient time after the monitored violations to show that violations have not reoccurred. Both monitors were removed shortly after the standard violations were recorded. Such action raises significant questions about claims that violations of the CO standard are no longer occurring in Cuyahoga County.

Comment

The commenter is aware of the CO modelling study recently conducted for major traffic intersections in Cuyahoga County. The commenter has been verbally informed that the modelling shows the potential for CO standard exceedances at some intersections. The commenter, however, believes that, because the study results have not been given a review by the local Cleveland agencies, the study results should not be used in making rulemaking decisions.

USEPA Response

At OEPA's request, a contractor finalized a Cleveland CO modelling study. The OEPA has reviewed and commented on the study results. The study does show a potential for CO standard exceedances at several intersections in Cuyahoga County based on 1986 traffic levels.

Comment

The commenter remains convinced that the March 3–4, 1983, CO eight-hour standard exceedances monitored at 8907 Carnegie Avenue, Cleveland were due to CO emissions from a tire fire in North Bloomfield, Ohio. Although gaussian dispersion modelling by USEPA has failed to substantiate the tire fire as the cause of the monitored standard violation, the commenter believes other facts support the argument that the tire fire was the cause of the standard violation. The commenters provided the following facts:

(1) A tire fire took place on the evening of March 2, 1983, and continued into the morning of March 3, 1983, in North Bloomfield, Ohio.

(2) A second tire fire took place on March 4, 1983, at the same location.

(3) The northeast Ohio area experienced predominately easterly winds during the three day period (March 2–4, 1983) making the Cleveland area downwind of the tire fire.

(4) The dimensions of the tire fire: length: 1,300 feet; width: 450 feet; height: Undetermined.

(5) The City of Cleveland, Division of Air Pollution Control, began receiving citizen complaints of burning rubber odors and haze on the morning of March 3, 1983. Plotting of complaint locations implied that the tire fire was the probable source of haze and odors.

(6) Other than the CO standard exceedances coinciding with the time period of the tire fire, there were no other recorded CO standard violations over a four-plus year period.

USEPA Response

USEPA agrees that the Cleveland CO standard violations in 1983 occurred during the same period as a documented tire fire in North Bloomfield. USEPA, however, does not agree that the tire fire is the only logical source for the monitored CO. Simple coincidence of the tire fire and the monitored CO standard exceedances does not prove that the tire fire was the cause of the CO standard exceedances. The same conditions that would have been required to have produced high tire fire related pollutant concentrations in Cleveland (primarily a low dispersion rate of pollutants due to a low mixing height or to high atmospheric stability) would have also resulted in higher pollutant concentrations resulting from local sources. Nobody has made a demonstration that local emissions were not the cause of the CO standard exceedances. To the contrary, the USEPA, through dispersion modelling using conservative assumptions (assumptions that should have led to the maximum tire fire CO impact that could be reasonably expected), showed that the tire fire should not have caused CO standard exceedances at the 8907 Carnegie Avenue monitoring site. A discussion of the modelling results is contained in the December 11, 1985, Technical Support Document for this action which is available at the Region V office.

The commenter does not refer to which four-plus year period is CO

standard violation free. Review of the CO data on file in USEPA's National Aerometric Data Bank shows that the eight-hour standard for CO (9 parts per million or approximately 10 milligrams per cubic meter not to be exceeded more than once per year) was violated in 1978 and 1981 at the Carnegie Avenue site. Single exceedances were recorded at this site in 1980 and 1979. Clearly this site had a history of high CO concentrations with periodic standard violations. No demonstration was made that these standard violations would have ended as a result of the implementation of emissions control measures. The 8907 Carnegie Avenue site was terminated in early 1984.

More recently, a CO standard violation was recorded in 1986 at the 1020 Euclid Avenue site. Clearly, CO standard violations continue to occur in Cuyahoga County. In addition, CO modelling for major roadway intersections using 1986 traffic levels showed the potential for CO standard violations at nine of the fifteen intersections modelled. Many intersections with high traffic levels remain unmodelled. The USEPA remains convinced that Cuyahoga County continues to experience CO standard violations at several locations in the County.

Comment

The commenter believes that attainment of the CO standard in Cuyahoga County would have been maintained in the future for the following reasons:

(1) Vehicle emissions will continue to decrease through the impact of the Federal Motor Vehicle Control Program (FMVCP).

(2) The traffic density and total number of vehicles are expected to decrease in the future.

(3) CO emissions from stationary sources are expected to decrease in the future.

(4) The proposed anti-tampering vehicle Inspection/Maintenance (I/M) program will further reduce CO emissions from vehicles.

USEPA Response

USEPA agrees that the CO emission reductions expected for the future would have reduced CO concentrations. This, however, has little bearing on whether or not the area is currently experiencing CO standard violations. It is agreed that, after the area reaches attainment of the standard, the cited CO emission control measures will assist in the maintenance of the standard. It should be noted the commenter did not quantify the impacts of the future emission controls. Therefore, it is not demonstrated that the standard would be attained or maintained in the future.

Comment

The commenter stated that a change in the monitoring location for the 8907 Carnegie Avenue monitor was necessary due to a request from the USEPA to relocate the monitor to a new location. In addition, problems were experienced at the 8907 Carnegie Avenue site maintaining the room temperature within the allowable range from the monitor. The 1925 St. Clair Avenue site was conditionally accepted by a representative of the USEPA. The Commenter believes that USEPA's complaint that the 8907 Carnegie Avenue site was not shown to be violation-free seems unfair given that the monitor relocation was requested by USEPA.

USEPA Response

USEPA agrees that a new monitoring location in downtown Cleveland, where traffic densities are generally higher and vehicle speeds are generally lower than in surrounding neighborhoods, was requested. It is also agreed that a representative of the USEPA, approved the 1925 St. Clair Avenue site. The 1925 St. Clair site, however, was not in a peak CO impact area where USEPA expected the worst-case CO site to be located. The 1925 St. Clair Avenue site is outside of the Central Business District (CBD) of Cleveland. In addition, USEPA did not expect the Carnegie Avenue data to be argued away simply on the basis of a monitor relocation. The Carnegie Avenue data were valid and showed a violation of the CO standard that needs to be dealt with.

Comment

The past six years of CO data seem to indicate that all CO problems are not necessarily traffic related. The commenter's contention remains that the March 3–4, 1983 CO standard violation was due to a tire fire. It has been the experience of the commenter that a number of past CO standard violations may have been the result of excess emissions from the steel mill blast furnaces in the local industrial valley rather than from traffic. The suspected stationary sources have now been either controlled or dismantled. High CO readings attributed to vehicular traffic does not seem to be a chronic problem in Cuyahoga County. This is due to: (1) A lack of long steel corridors in street canyons; (2) a lower traffic volume in the CBD compared to other major cities; and (3) a constant ventilation of air due to the proximity of Lake Erie.

USEPA Response

As discussed above and in the Technical Support Document dated December 11, 1985, USEPA has not been convinced that the North Bloomfield tire fire was the cause of the March 3–4, 1983, CO standard violation. Similarly, USEPA is not convinced that other CO standard violations, especially the 1986 standard violation at 1020 Euclid Avenue, were due to temporary steel mill or other stationary source emissions. A previous attempt was made through modelling to show that temporary, excess steel mill emissions caused the 1986 CO standard exceedances at the 1020 Euclid Avenue site. The end result was that the excess steel mill emissions were modelled to have an insignificant impact at the monitoring site. Lacking such demonstration, USEPA continues to view the CO standard violations at the 1020 Euclid Avenue and 8907 Carnegie Avenue sites as part of the evidence that CO standard violations continue to occur in Cuyahoga County.

In addition to the CO standard violations, CO modelling shows that several of the intersections in the County may be associated with ambient CO standard violations. Out of fifteen intersections modelled for 1986 traffic conditions, nine intersections were modelled with potential CO standard violations. Many other intersections identified as having high traffic volumes and recommended for possible modelling were not modelled. It cannot be concluded on the limited modelling that CO standard violations are limited to the nine intersections with modelled CO standard violations.

Regardless of the extent or source of the CO standard violations, USEPA remains convinced that Cuyahoga County should retain its nonattainment designation for CO because of the monitored violations.

Final Action

USEPA is taking final action to disapprove the State's request to redesignate Cuyahoga County from nonattainment to attainment for the carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 23, 1989. This action

may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Intergovernmental relations, Air Pollution Control, National Parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Dated: November 8, 1988.

Lee M. Thomas,

Administrator.

[FR Doc. 88–27066 Filed 11–22–88; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 3F2956/R986; FRL–3480–1]

Pesticide Tolerance for Glyphosate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the herbicide glyphosate and its metabolite aminomethylphosphoric acid (AMPA) in or on the raw agricultural commodity (RAC) shellfish at 3.0 parts per million (ppm). Monsanto Co. petitioned for this tolerance.

EFFECTIVE DATE: November 23, 1988.

ADDRESS: Written objections, identified by the document control number, [PP 3F2956/R986], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert J. Taylor, Product Manager (PM) 25, Registration Division (TS–767C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–1800.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of September 9, 1988 (53 FR 34974), in which it was announced that the Monsanto Co., 1101 17th St. NW., Washington, DC 20036, had submitted a pesticide petition (PP 3F2956) to EPA proposing to amend 40 CFR 180.364 by establishing a tolerance for the combined residues of the herbicide glyphosate [N-(phosphonomethyl)glycine] and its metabolite aminomenthylphosphoric acid (AMPA) in or on the RAC shellfish at 0.25 ppm.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerance will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: November 7, 1988.

Douglas D. Campt,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.364(b) is amended by adding and alphabetically inserting the listing for shellfish, to read as follows:

§ 180.364 Glyphosate; tolerances for residues.

* * * * *

(b) * * *

Commodities	Parts per million
* * * * *	
Shellfish	3.5
* * * * *	

[FR Doc. 88–26940 Filed 11–23–88; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–45

[FPMR Amendment H–165]

Utilization and Disposal of Personal Property; Correction

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule; correction.

SUMMARY: The purpose of this document is to make a correction to a final rule published May 5, 1988 (53 FR 16089) that revised portions of FPMR Subchapter H. The error was an amendatory language oversight, and it is being corrected to reflect the original intended revision.

EFFECTIVE DATE: May 5, 1988.

FOR FURTHER INFORMATION CONTACT: Stanley M. Duda, Director, Property Management Division (FBP), 703–557–1240.

SUPPLEMENTARY INFORMATION: On May 5, 1988 (53 FR 16089), General Services Administration revised portions of FPMR Subchapter H that provided policy and procedure for the utilization and disposal of personal property. On page 16122 of that document, Item 72 should have read as follows:

72. Sections 101–45.316, 101–45.316–1, 101–45.316–2, 101–45.316–3, and 101–45.316–4 are removed and reserved to read as follows:

§ 101–45.316 [Removed and Reserved]

§ 101–45.316–1 [Removed and Reserved]

§ 101–45.316–2 [Removed and Reserved]

§ 101–45.316–3 [Removed and Reserved]

§ 101–45.316–4 [Removed and Reserved]

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)

Dated: November 9, 1988.

Emily C. Karam,

Director, Information Management Division.

[FR Doc. 88–27245 Filed 11–22–88; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 64

[Gen. Docket 87-505; FCC 88-341]

National Security Emergency Preparedness Telecommunications Service Priority System

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action finalizes the petition to the Federal Communications Commission (Commission or FCC) by the Secretary of Defense in his capacity as the Executive Agent of the National Communications System (NCS). NCS proposed to replace the existing Restoration Priority rules with a new National Security Emergency Preparedness (NSEP) Telecommunications Service Priority (TSP) system which has broader scope and applicability. The suggested revisions, requiring major changes to Part 64 of FCC rules, were announced in the Commission's Public Notice released on April 3, 1987. Following receipt and analysis of comments from interested parties, the Commission released its Notice of Proposed Rulemaking (NPRM) in Gen. Docket No. 87-505 adopted November 2, 1987 and released December 2, 1987. The NPRM included a transcript of the revised rules proposed by NCS, and interested parties were asked for their views. Comments and reply comments as well as revisions by NCS to its proposal have dictated the need for the Commission to update its rules governing priority treatment of provisioning and restoration of common carrier-provided telecommunications services during emergencies.

EFFECTIVE DATE: December 23, 1988.

FOR FURTHER INFORMATION CONTACT: James M. Talens, Chief, Domestic Services Branch, Common Carrier Bureau, telephone (202) 634-1800.

SUPPLEMENTARY INFORMATION: This preamble summarizes the Report and Order (R&O) in Gen. Docket No. 87-505 adopted October 27, 1988, and released November 17, 1988. The complete document may be inspected and copied during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Dockets Branch, Room 239, 1919 M St. NW., Washington, DC. A transcript may be purchased from the Commission's duplicating contractor, International Transcription Services, 2100 M St. NW., Suite 140, Washington, DC 20037, telephone (202) 857-3800.

In 1967, the Commission adopted rules establishing a system of priorities applicable to leased intercity private line services. Those rules, contained in Appendix A of Part 64 of the Commission's rules and known as the Restoration Priority (RP) System, were promulgated to ensure that services vital to the national interest would be maintained, to the maximum extent possible, during emergency conditions. The RP designation is obtained by submitting a request to NCS in the case of federal and foreign government requests, or to the FCC for state and local government and private industry requests. The FCC is responsible for issuing final notices of priority based on NCS recommendations or on the requests that come directly to it. The rules remain effective until superseded by the President's powers under section 706 of the Communications Act.

In its petition for rulemaking, NCS urged that the current RP System does not fully address today's needs for priority treatment of NSEP telecommunications services and that a new TSP System is needed. Under the direction of the Executive Office of the President, NCS proposed rules to replace the RP System with the new TSP System. NCS' proposal was issued by the Commission as a NPRM released December 2, 1987. A summary of the NPRM was published in the **Federal Register** on December 17, 1987 (52 FR 47951), and the complete document was published in the FCC Record at 2 FCC Rcd 24 (1987). Based on comments and reply comments filed by interested parties, including a revised proposal by NCS in response to some of the concerns discussed in the NPRM, the Commission has revised Parts 0 and 64 of its rule as set forth below. The revised rules initiate a program that modernizes the means by which the nation is assured that essential communications services provided by common carriers receive priority provisioning and restoration. The rules may serve also as guidance for the provisioning and restoration of private systems.

Regulatory Flexibility Analysis

The Commission is responding to deficiencies in the existing RP System, and adopting a TSP System by which carriers may provide priority provisioning and restoration of service when specific NSEP needs have been identified. The impact of the new TSP rules upon large and small telecommunications providers will vary depending on the number of NSEP services they provide. The burden hours, estimated at 105,000 annually, will be assumed by the National Communications System/Department of Defense.

Ordering Clauses

Accordingly, it is ordered, pursuant to authority contained in 47 USC 151, 154(i), 201-205 and 303(r), that Parts 0 and 64 of the Commission's Rules and Regulations are amended as shown at the end of this document effective December 23, 1988.

It is further ordered, that the initial operating capability date of these rules will be nine months after the appearance in the **Federal Register** of a summary of the Commission's order concerning the Executive Office of the President's procedures for implementation.

It is further ordered, that the Chief, Common Carrier Bureau is delegated authority to participate in and conduct discussions and meetings and issue orders to resolve issues in connection with implementation of the Telecommunications Service Priority System.

List of Subjects

47 CFR Part 0

Commission organization, Functions of Office of Managing Director, Functions of Common Carrier Bureau, Additional authority delegated to Field Operations Bureau.

47 CFR Part 64

Communications common carriers, Priority services in emergencies, Telecommunications Service Priority (TSP) system, National security emergency preparedness (NSEP).

Donna R. Searcy,

Secretary.

For the reasons summarized in the foregoing preamble and as detailed in the Report and Order in Gen. Docket No. 87-505 (FCC 88-341) adopted October 27, 1988, 47 CFR Parts 0 and 64 of the Commission's Rules and Regulations are amended as follows:

Appendix

A. Part 0 of the Commission's Rules and Regulations (Chapter 1 of Title 47 of the Code of Federal Regulations, Part 0) is amended as follows:

1. The authority citation for Part 0 continues to read as follows:

Authority: Sec. 5, 48 Stat. 1068, as amended; 47 U.S.C. 155, unless otherwise noted.

2. § 0.11(a)(10) is revised to read as follows:

§ 0.11 Functions of the Office.

(a) * * *

(10) Under the general direction of the Defense Commissioner, coordinate the defense activities of the Commission, including recommendation of national emergency plans and preparedness programs covering Commission licensees and planning for continuity of essential Commission functions during national emergency conditions. Support the Chief, Common Carrier Bureau on matters involving assigment of Telecommunications Service Priority System priorities and in the administration of that System. Act as FCC Defense Coordinator and principal to the National Communications System.

* * * * *

3. Section 0.91 is amended by adding new paragraph (l) to read as follows:

§ 0.91 Functions of the Bureau.

* * * * *

(l) Administers the Telecommunications System Priority System with the concurrence of the Office of the Managing Director, and resolves matters involving assignment of priorities and other issues pursuant to Part 64 of the rules.

4. § 0.314(g) is revised to read as follows:

§ 0.314 Additional authority delegated.

* * * * *

(g) To act on and make determinations on behalf of the Commission regarding requests for assignments and reassignments of priorities under the Telecommunications Service Priority System, Part 64 of the rules, when circumstances require immediate action and the common carrier seeking to provide service states that it cannot contact the National Communications System or the Commission office normally responsible for such assignments.

* * * * *

B. Part 64 of the Commission's Rules and Regulations (Chapter 1 of Title 47 of the Code of Federal Regulations, Part 64) is amended as follows:

1. The authority citation for Part 64 continues to read as follows:

Authority: Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, unless otherwise noted.

2. § 64.401 is revised to read as follows:

§ 64.401 Policies and procedures for provisioning and restoring certain telecommunications services in emergencies.

The communications common carrier shall maintain and provision and, if disrupted, restore facilities and services in accordance with policies and procedures set forth in the Appendix to this part.

§ 64.402 [Removed]

Section 64.402 is removed.

Appendix B—[Removed]

4. Appendix B to Part 64 is removed.

5. Appendix A to Part 64 is revised to read as follows:

Appendix A to Part 64—Telecommunications Service Priority (TSP) System for National Security Emergency Preparedness (NSEP)

1. Purpose and Authority

a. This appendix establishes policies and procedures and assigns responsibilities for the National Security Emergency Preparedness (NSEP) Telecommunications Service Priority (TSP) System. The NSEP TSP System authorizes priority treatment to certain domestic telecommunications services (including portions of U.S. international telecommunication services provided by U.S. service vendors) for which provisioning or restoration priority (RP) levels are requested, assigned, and approved in accordance with this appendix.

b. This appendix is issued pursuant to sections 1, 4(i), 201 through 205 and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 201 through 205 and 303(r). These sections grant to the Federal Communications Commission (FCC) the authority over the assignment and approval of priorities for provisioning and restoration of common carrier-provided telecommunications services. Under section 706 of the Communications Act, this authority may be superseded, and expanded to include non-common carrier telecommunication services, by the war emergency powers of the President of the United States. This appendix provides the Commission's Order to telecommunication service vendors and users to comply with policies and procedures establishing the NSEP TSP System, until such policies and procedures are superseded by the President's war emergency powers. This appendix is intended to be read in conjunction with regulations and procedures that the Executive Office of the President issues (1) to implement responsibilities assigned in section 6(b) of this appendix, or (2) for use in the event this appendix is superseded by the President's war emergency powers.

c. Together, this appendix and the regulations and procedures issued by the Executive Office of the President establish one uniform system of priorities for provisioning and restoration of NSEP telecommunication services both before and after invocation of the President's war emergency powers. In order that government and industry resources may be used effectively under all condition, a single set of rules, regulations, and procedures is necessary, and they must be applied on a day-to-day basis to all NSEP services so that the priorities they establish can be implemented at once when the need arises.

* In sections 2(a)(2) and 2(b)(2) of Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions" April 3, 1984 (49 FR 13471 (1984)), the President assigned to the Director, Office of Science and Technology Policy, certain NSEP telecommunication resource management responsibilities. The term "Executive Office of the President" as used in this appendix refers to the official or organization designated by the President to act on his behalf.

2. Applicability and Revocation

a. This appendix applies to NSEP telecommunications services:

(1) For which initial or revised priority level assignments are requested pursuant to section 8 of this appendix.

(2) Which were assigned restoration priorities under the provision of FCC Order 80–581; 81 FCC 2d 441 (1980); 47 CFR Part 64, Appendix A, "Priority System for the Restoration of Common Carrier Provided Intercity Private Line Services"; and are being resubmitted for priority level assignments pursuant to section 10 of this appendix. (Such services will retain assigned restoration priorities until a resubmission for a TSP assignment is completed or until the existing RP rules are terminated.)

b. FCC Order 80–581 will continue to apply to all other intercity, private line circuits assigned restoration priorities thereunder until the fully operating capability date of this appendix, 30 months after the initial operating capability date referred to in subsection d of this section.

c. In addition, FCC Order, "Precedence System for Public Correspondence Services Provided by the Communications Common Carriers" (34 FR 17292 (1969)); (47 CFR Part 64, Appendix B), is revoked as of the effective date of this appendix.

d. The initial operating capability (IOC) date for NSEP TSP will be nine months after release in the Federal Register of the FCC's order following review of procedures submitted by the Executive Office of the President. On this IOC date requests for priority assignments generally will be accepted only by the Executive Office of the President.

3. Definitions

As used in this part:

a. *Assignment* means the designation of priority level(s) for a defined NSEP telecommunications service for a specified time period.

b. *Audit* means a quality assurance review in response to identified problems.

c. *Government* refers to the Federal government or any foreign, state, county, municipal or other local government agency or organization. Specific qualifications will be supplied whenever reference to a particular level of government is intended (e.g., "Federal government", "state government"). "Foreign government" means any sovereign empire, kingdom, state, or independent political community, including foreign diplomatic and consular

establishments and coalitions or associations of governments (e.g., North Atlantic Treaty Organization (NATO), Southeast Asian Treaty Organization (SEATO), Organization of American States (OAS), and government agencies or organization (e.g., Pan American Union, International Postal Union, and International Monetary Fund)).

d. *National Communications System (NCS)* refers to that organization established by the President in Executive Order No. 12472, "Assignment of National Security and Emergency Preparedness Telecommunications Functions," April 3, 1984, 49 FR 13471 (1984).

e. *National Coordinating Center (NCC)* refers to the joint telecommunications industry-Federal government operation established by the National Communications System to assist in the initiation, coordination, restoration, and reconstitution of NSEP telecommunication services or facilities.

f. *National Security Emergency Preparedness (NSEP)* telecommunications services," or "NSEP services," means telecommunication services which are used to maintain a state of readiness or to respond to and manage any event or crisis (local, national, or international), which causes or could cause injury or harm to the population, damage to or loss of property, or degrades or threatens the NSEP posture of the United States. These services fall into two specific categories, Emergency NSEP and Essential NSEP, and are assigned priority levels pursuant to section 9 of this appendix.

g. *NSEP treatment* refers to the provisioning of a telecommunication service before others based on the provisioning priority level assigned by the Executive Office of the President.

h. *Priority action* means assignment, revision, revocation, or revalidation by the Executive Office of the President of a priority level associated with an NSEP telecommunications service.

i. *Priority level* means the level that may be assigned to an NSEP telecommunications service specifying the order in which provisioning or restoration of the service is to occur relative to other NSEP and/or non-NSEP telecommunication services. Priority levels authorized by this appendix are designated (highest to lowest) "E," "1," "2," "3," "4," and "5," for provisioning and "1," "2," "3," "4," and "5," for restoration.

j. *Priority level assignment* means the priority level(s) designated for the provisioning and/or restoration of a particular NSEP telecommunications service under section 9 of this appendix.

k. *Private NSEP telecommunications services* include non-common carrier telecommunications services including private line, virtual private line, and private switched network services.

l. *Provisioning* means the act of supplying telecommunications service to a user, including all associated transmission, wiring and equipment. As used herein, "provisioning" and "initiation" are synonymous and include altering the state of an existing priority service or capability.

m. *Public switched NSEP telecommunications services* include those NSEP telecommunications services utilizing public switched networks. Such services may include both interexchange and intraexchange network facilities (e.g., switching systems, interoffice trunks and subscriber loops).

n. *Reconciliation* means the comparison of NSEP service information and the resolution of identified discrepancies.

o. *Restoration* means the repair or returning to service of one or more telecommunication services that have experienced a service outage or are unusable for any reason, including a damaged or impaired telecommunications facility. Such repair or returning to service may be done by patching, rerouting, substitution of component parts or pathways, and other means, as determined necessary by a service vendor.

p. *Revalidation* means the rejustification by a service user of a priority level assignment. This may result in extension by the Executive Office of the President of the expiration date associated with the priority level assignment.

q. *Revision* means the change of priority level assignment for an NSEP telecommunications service. This includes any extension of an existing priority level assignment to an expanded NSEP service.

r. *Revocation* means the elimination of a priority level assignment when it is no longer valid. All priority level assignments for an NSEP service are revoked upon service termination.

s. *Service identification* refers to the information uniquely identifying an NSEP telecommunications service to the service vendor and/or service user.

t. *Service user* refers to any individual or organization (including a service vendor) supported by a telecommunications service for which a priority level has been requested or assigned pursuant to section 8 or 9 of this appendix.

u. *Service vendor* refers to any person, associate, partnership, corporation, organization, or other entity (including common carriers and government organizations) that offers to supply any telecommunications equipment, facilities, or services (including customer premises equipment and wiring) or combination thereof. The term includes resale carriers, prime contractors, subcontractors, and interconnecting carriers.

v. *Spare circuits or services* refers to those not being used or contracted for by any customer.

w. *Telecommunication services* means the transmission, emission, or reception of signals, signs, writing, images, sounds, or intelligence of any nature, by wire, cable, satellite, fiber optics, laser, radio, visual or other electronic, electric, electromagnetic, or acoustically coupled means, or any combination thereof. The term can include necessary telecommunication facilities.

x. *Telecommunications Service Priority (TSP) system user* refers to any individual, organization, or activity that interacts with the NSEP TSP System.

4. Scope

a. *Domestic NSEP services.* The NSEP TSP System and procedures established by this appendix authorize priority treatment to the following domestic telecommunication services (including portions of U.S. international telecommunication services provided by U.S. vendors) for which provisioning or restoration priority levels are requested, assigned, and approved in accordance with this appendix:

(1) Common carrier services which are:

(a) Interstate and foreign telecommunications services,

(b) Intrastate telecommunication services inseparable from interstate or foreign telecommunications services, and instrastate telecommunication services to which priority levels are assigned pursuant to section 9 of this appendix.

Note.—Initially, the NSEP TSP System's applicability to public switched services is limited to (a) provisioning of such services (e.g., business, centrex, cellular, foreign exchange, Wide Area Telephone Service (WATS) and other services that the selected vendor is able to provision) and (b) restoration of services and components of services that the selected vendor is able to restore.

(2) Services which are provided by government and/or non-common carriers and are interconnected to common carrier services assigned a priority level pursuant to section 9 of this appendix.

b. *Control services and orderwires.* The NSEP TSP System and procedures established by this appendix are not applicable to authorize priority treatment to control services or orderwires owned by a service vendor and needed for provisioning, restoration, or maintenance of other services owned by a service vendor. Such control services and orderwires shall have priority provisioning and restoration over all other telecommunication services (including NSEP services) and shall be exempt from preemption. However, the NSEP TSP System and procedures established by this appendix are applicable to control services or orderwires leased by a service vendor.

c. *Other services.* The NSEP TSP System may apply, at the discretion of and upon special arrangements by the NSEP TSP System users involved, to authorize priority treatment to the following telecommunication services:

(1) Government or non-common carrier services which are not connected to common carrier provided services assigned a priority level pursuant to section 9 of this appendix.

(2) Portions of U.S. international services which are provided by foreign correspondents. (U.S. telecommunication service vendors are encouraged to ensure that relevant operating arrangements are consistent to the maximum extent practicable with the NSEP TSP System. If such arrangements do not exist, U.S. telecommunication service vendors should handle service provisioning and/or restoration in accordance with any system acceptable to their foreign correspondents which comes closest to meeting the procedures established in this appendix.)

5. Policy

The NSEP TSP System is the regulatory, administrative, and operational system authorizing and providing for priority treatment, *i.e.*, provisioning and restoration, of NSEP telecommunication services. As such, it establishes the framework for telecommunication service vendors to provision, restore, or otherwise act on a priority basis to ensure effective NSEP telecommunication services. The NSEP TSP System allows the assignment of priority levels to any NSEP service across three time periods, or stress conditions: Peacetime/Crisis/Mobilization, Attack/War, and Post-Attack/Recovery. Although priority levels normally will be assigned by the Executive Office of the President and retained by service vendors only for the current time period, they may be preassigned for the other two time periods at the request of service users who are able to identify and justify in advance, their wartime or post-attack NSEP telecommunication requirements. Absent such preassigned priority levels for the Attack/War and Post-Attack/Recovery periods, priority level assignments for the Peacetime/Crisis/Mobilization period will remain in effect. At all times, priority level assignments will be subject to revision by the FCC or (on an interim basis) the Executive Office of the President, based upon changing NSEP needs. No other system of telecommunication service priorities which conflicts with the NSEP TSP System is authorized.

6. Responsibilities

a. The FCC will:

(1) Provide regulatory oversight of implementation of the NSEP TSP System.

(2) Enforce NSEP TSP System rules and regulations, which are contained in this appendix.

(3) Act as final authority for approval, revision, or disapproval of priority actions by the Executive Office of the President and adjudicate disputes regarding either priority actions or denials of requests for priority actions by the Executive Office of the President, until superseded by the President's war emergency powers under section 706 of the Communications Act.

(4) Function (on a discretionary basis) as a sponsoring Federal organization. (See section 6(c) below.)

b. The Executive Office of the President will:

(1) During exercise of the President's war emergency powers under section 706 of the Communications Act, act as the final approval authority for priority actions or denials of requests for priority actions, adjudicating any disputes.

(2) Until the exercise of the President's war emergency powers, administer the NSEP TSP System which includes:

(a) Receiving, processing, and evaluating requests for priority actions from service users, or sponsoring Federal government organizations on behalf of service users (e.g., Department of State or Defense on behalf of foreign governments, Federal Emergency Management Agency on behalf of state and local governments, and any Federal organization on behalf of private industry entities). Action on such requests will be completed within 30 days of receipt.

(b) Assigning, revising, revalidating, or revoking priority levels as necessary or upon request of service users concerned, and denying requests for priority actions as necessary, using the categories and criteria specified in section 12 of this appendix. Action on such requests will be completed within 30 days of receipt.

(c) Maintaining data on priority level assignments.

(d) Periodically forwarding to the FCC lists of priority actions by the Executive Office of the President for review and approval.

(e) Periodically initiating reconciliation.

(f) Testing and evaluating the NSEP TSP System for effectiveness.

(g) Conducting audits as necessary. Any Telecommunications Service Priority (TSP) System user may request the Executive Office of the President to conduct an audit.

(h) Issuing, subject to review by the FCC, regulations and procedures supplemental to and consistent with this appendix regarding operation and use of the NSEP TSP System.

(i) Serving as a centralized point-of-contact for collecting and disseminating to all interested parties (consistent with requirements for treatment of classified and proprietary material) information concerning use and abuse of the NSEP TSP System.

(j) Establishing and assisting a TSP System Oversight Committee to identify and review any problems developing in the system and recommend actions to correct them or prevent recurrence. In addition to representatives of the Executive Office of the President, representatives from private industry (including telecommunication service vendors), state and local governments, the FCC, and other organizations may be appointed to that Committee.

(k) Reporting at least quarterly to the FCC and TSP System Oversight Committee, together with any recommendations for action, the operational status of and trends in the NSEP TSP System, including:

(i) Numbers of requests processed for the various priority actions, and the priority levels assigned.

(ii) Relative percentages of services assigned to each priority level under each NSEP category and subcategory.

(iii) Any apparent serious misassignment or abuse of priority level assignments.

(iv) Any existing or developing problem.

(l) Submitting semi-annually to the FCC and TSP System Oversight Committee a summary report identifying the time and event associated with each invocation of NSEP treatment under section 9(c) of this appendix, whether the NSEP service requirement was adequately handled, and whether any additional charges were incurred. These reports will be due by April 30th for the preceding July through December and by October 31 for the preceding January through June time periods.

(m) All reports submitted to the FCC should be directed to Chief, Domestic Services Branch, Common Carrier Bureau, Washington, DC 20554.

(3) Function (on a discretionary basis) as a sponsoring Federal organization. (See section 6(c) below.)

c. Sponsoring Federal organizations will:

(1) Review and decide whether to sponsor foreign, state, and local government and private industry (including telecommunication service vendors) requests for priority actions. Federal organizations will forward sponsored requests with recommendations for disposition to the Executive Office of the President. Recommendations will be based on the categories and criteria in section 12 of this appendix.

(2) Forward notification of priority actions or denials of requests for priority actions from the Executive Office of the President to the requesting foreign, state, and local government and private industry entities.

(3) Cooperate with the Executive Office of the President during reconciliation, revalidation, and audits.

(4) Comply with any regulations and procedures supplemental to and consistent with this appendix which are issued by the Executive Office of the President.

d. Service users will:

(1) Identify services requiring priority level assignments and request and justify priority level assignments in accordance with this appendix and any supplemental regulations and procedures issued by the Executive Office of the President that are consistent with this appendix.

(2) Request and justify revalidation of all priority level assignments at least every three years.

(3) For services assigned priority levels, ensure (through contractual means or otherwise) availability of customer premises equipment and wiring necessary for end-to-end service operation by the service due date, and continued operation; and, for such services in the Emergency NSEP category, by the time that vendors are prepared to provide the services. Additionally, designate the organization responsible for the service on an end-to-end basis.

(4) Be prepared to accept services assigned priority levels by the service due dates or, for services in the Emergency NSEP category, when they are available.

(5) Pay vendors any authorized costs associated with services that are assigned priority levels.

(6) Report to vendors any failed or unusable services that are assigned priority levels.

(7) Designate a 24-hour point-of-contact for matters concerning each request for priority action and apprise the Executive Office of the President thereof.

(8) Upon termination of services that are assigned priority levels, or circumstances warranting revisions in priority level assignment (e.g., expansion of service), request and justify revocation or revision.

(9) When NSEP treatment is invoked under section 9(c) of this appendix, within 90 days following provisioning of the service involved, forward to the National Coordinating Center (see section 3(e) of this appendix) complete information identifying the time and event associated with the invocation and regarding whether the NSEP service requirement was adequately handled

and whether any additional charges were incurred.

(10) Cooperate with the Executive Office of the President during reconciliation, revalidation, and audits.

(11) Comply with any regulations and procedures supplemental to and consistent with this appendix that are issued by the Executive Office of the President.

e. Non-federal service users, in addition to responsibilities prescribed above in section 6(d), will obtain a sponsoring Federal organization for all requests for priority actions. If unable to find a sponsoring Federal organization, a non-federal service user may submit its request, which must include documentation of attempts made to obtain a sponsor and reasons given by the sponsor for its refusal, directly to the Executive Office of the President.

f. Service vendors will:

(1) When NSEP treatment is invoked by service users, provision NSEP telecommunication services before non-NSEP services, based on priority level assignments made by the Executive Office of the President. Provisioning will require service vendors to:

(a) Allocate resources to ensure best efforts to provide NSEP services by the time required. When limited resources constrain response capability, vendors will address conflicts for resources by:

(i) Providing NSEP services in order of provisioning priority level assignment (i.e., "E", "1", "2", "3", "4", or "5");

(ii) Providing Emergency NSEP services (i.e., those assigned provisioning priority level "E") in order of receipt of the service requests;

(iii) Providing Essential NSEP services (i.e., those assigned priority levels "1", "2", "3", "4", or "5") that have the same provisioning priority level in order of service due dates; and

(iv) Referring any conflicts which cannot be resolved (to the mutual satisfaction of servicer vendors and users) to the Executive Office of the President for resolution.

(b) Comply with NSEP service by:

(i) Allocating resources necessary to provide Emergency NSEP services as soon as possible, dispatching outside normal business hours when necessary;

(ii) Ensuring best efforts to meet requested service dates for Essential NSEP services, negotiating a mutually (customer and vendor) acceptable service due date when the requested service due date cannot be met; and

(iii) Seeking National Coordinating Center (NCC) assistance as authorized under the NCC Charter (see section 1.3, NCC Charter, dated October 9, 1985).

(2) Restore switched (e.g., cellular) NSEP telecommunications services which suffer outage, or are reported as unusable or otherwise in need of restoration, before non-NSEP services, based on restoration priority level assignments. (Note.—For broadband or multiple service facilities, restoration is permitted even though it might result in restoration of services assigned no or lower priority levels along with, or sometimes ahead of, some higher priority level services.) Restoration will require service vendors to restore NSEP services in order of restoration priority level assignment (i.e., "E", "1", "2", "3", "4", or "5") by:

(a) Allocating available resources to restore NSEP services as quickly as practicable, dispatching outside normal business hours to restore services assigned priority levels "1", "2", and "3" when necessary, and services assigned priority level "4" and "5" when the next business day is more than 24 hours away;

(b) Restoring NSEP services assigned the same restoration priority level based upon which can be first restored. (However, restoration actions in progress should not normally be interrupted to restore another NSEP service assigned the same restoration priority level);

(c) Patching and/or rerouting NSEP services assigned restoration priority levels from "1" through "5," when use of patching and/or rerouting will hasten restoration;

(d) Seeking National Coordinating Center (NCC) assistance authorized under the NCC Charter; and

(e) Referring any conflicts which cannot be resolved (to the mutual satisfaction of service vendors and users) to the Executive Office of the President for resolution.

(3) Respond to provisioning requests of customers and/or other service vendors, and to restoration priority level assignments when an NSEP service suffers an outage or is reported as unusable, by:

(a) Ensuring that vendor personnel understand their responsibilities to handle NSEP provisioning requests and to restore NSEP service; and

(b) Providing a 24-hour point-of-contact for receiving provisioning requests for Emergency NSEP services and reports of NSEP service outages or unusability.

(c) Seek verification from an authorized entity if legitimacy of a priority level assignment or provisioning request for an NSEP service is in doubt. However, processing of Emergency NSEP service requests will not be delayed for verification purposes.

(4) Cooperate with other service vendors involved in provisioning or restoring a portion of an NSEP service by honoring provisioning or restoration priority level assignments, or requests for assistance to provision or restore NSEP services, as detailed in sections 6(f)(1), (2), and (3) above.

(5) All service vendors, including resale carriers, are required to ensure that service vendors supplying underlying facilities are provided information necessary to implement priority treatment of facilities that support NSEP services.

(6) Preempt, when necessary, existing services to provide and NSEP service as authorized in section 7 of this appendix.

(7) Assist in ensuring that priority level assignments of NSEP services are accurately identified "end-to-end" by:

(a) Seeking verification from an authorized Federal government entity if the legitimacy of the restoration priority level assignment is in doubt;

(b) Providing to subcontractors and/or interconnecting carriers the restoration priority level assigned to a service;

(c) Supplying, to the Executive Office of the President, when acting as a prime contractor to a service user, confirmation information regarding NSEP service completion for that portion of the service they have contracted to supply;

(d) Supplying, to the Executive Office of the President, NSEP service information for the purpose of reconciliation.

(e) Cooperating with the Executive Office of the President during reconciliation.

(f) Periodically initiating reconciliation with their subcontractors and arranging for subsequent subcontractors to cooperate in the reconciliation process.

(8) Receive compensation for costs authorized through tariffs or contracts by:

(a) Provisions contained in properly filed state or Federal tariffs; or

(b) Provisions of properly negotiated contracts where the carrier is not required to file tariffs.

(9) Provision or restore only the portions of services for which they have agreed to be responsible (i.e., have contracted to supply), unless the President's war emergency powers under section 706 of the Communications Act are in effect.

(10) Cooperate withe the Executive Office of the President during audits.

(11) Comply with any regulations or procedures supplemental to and consistent with this appendix that are issued by the Executive Office of the President and reviewed by the FCC.

(12) Insure that at all times a reasonable number of public switched network services are made available for public use.

(13) Not disclose information concerning NSEP services they provide to those not having a need-to-know or might use the information for competitive advantage.

7. Preemption of Existing Services

When necessary to provision or restore NSEP services, service vendors may preempt services they provide as specified below. "User" as used in this Section means any user of a telecommunications service, including both NSEP and non-NSEP services. Prior consent by a preempted user is not required.

a. The sequence in which existing services may be preempted to provision NSEP services assigned a provisioning priority level "E" or restore NSEP services assigned a restoration priority level from "1" through "5":

(1) Non-NSEP services: If suitable spare services are not available, then, based on the considerations in this appendix and the service vendor's best judgment, non-NSEP services will be preempted. After ensuring a sufficient number of public switched services are available for public use, based on the service vendor's best judgment, such services may be used to satisfy a requirement for provisioning NSEP services.

(2) NSEP services: If no suitable spare or non-NSEP services are available, then existing NSEP services may be preempted to provision or restore NSEP services with higher priority level assignments. When this is necessary, NSEP services will be selected for preemption in the inverse order of priority level assignment.

(3) Service vendors who are preempting services will ensure their best effort to notify the service user of the preempted service and state the reason for and estimated duration of the preemption.

b. Service vendors may, based on their best judgment, determine the sequence in which existing services may be preempted to provision NSEP services assigned a provisioning priority of "1" through "5". Preemption is not subject to the consent of the user whose service will be preempted.

8. Requests for Priority Assignments.

All service users are required to submit requests for priority actions through the Executive Office of the President in the format and following the procedures prescribed by that Office.

9. Assignment, Approval, Use, and Invocation of Priority Levels

a. *Assignment and approval of priority levels.* Priority level assignments will be based upon the categories and criteria specified in section 12 of this appendix. A priority level assignment made by the Executive Office of the President will serve as that Office's recommendation to the FCC. Until the President's war emergency powers are invoked, priority level assignments must be approved by the FCC. However, service vendors are ordered to implement any priority level assignments that are pending FCC approval.

After invocation of the President's war emergency powers, these requirements may be superseded by other procedures issued by the Executive Office of the President.

b. *Use of Priority Level Assignments.*

(1) All provisioning and restoration priority level assignments for services in the Emergency NSEP category will be included in initial service orders to vendors. Provisioning priority level assignments for Essential NSEP services, however, will not usually be included in initial service orders to vendors. NSEP treatment for Essential NSEP services will be invoked and provisioning priority level assignments will be conveyed to service vendors only if the vendors cannot meet needed service dates through the normal provisioning process.

(2) Any revision or revocation of either provisioning or restoration priority level assignments will also be transmitted to vendors.

(3) Service vendors shall accept priority levels and/or revisions only after assignment by the Executive Office of the President.

Note.—Service vendors acting as prime contractors will accept assigned NSEP priority levels only when they are accompanied by the Executive Office of the President designated service identification, *i.e.*, TSP Authorization Code. However, service vendors are authorized to accept priority levels and/or revisions from users and contracting activities before assignment by the Executive Office of the President when service vendor, user, and contracting activities are unable to communicate with either the Executive Office of the President or the FCC. Processing of Emergency NSEP service requests will not be delayed for verification purposes.

c. *Invocation of NSEP treatment.* To invoke NSEP treatment for the priority provisioning of an NSEP telecommunications service, an authorized Federal official either within, or acting on behalf of, the service user's organization must make a written or oral declaration to concerned service vendor(s) and the Executive Office of the President that NSEP treatment is being invoked. Authorized Federal officials include the head or director of a Federal agency, commander of a unified/specified military command, chief of military service, or commander of a major military command; the delegates of any of the foregoing; or any other officials as specified in supplemental regulations or procedures issued by the Executive Office of the President. The authority to invoke NSEP treatment may be delegated only to a general or flag officer of a military service, civilian employee of equivalent grade (e.g., Senior Executive Service member), Federal Coordinating Officer or Federal Emergency Communications Coordinator/Manager, or any other such officials specified in supplemental regulations or procedures issued by the Executive Office of the President. Delegates must be designated as such in writing, and written or oral invocations must be accomplished, in accordance with supplemental regulations or procedures issued by the Executive Office of the President.

10. Resubmission of Circuits Presently Assigned Restoration Priorities

All circuits assigned restoration priorities must be reviewed for eligibility for initial restoration priority level assignment under the provisions of this appendix. Circuits currently assigned restoration priorities, and for which restoration priority level assignments are requested under section 8 of this appendix, will be resubmitted to the Executive Office of the President. To resubmit such circuits, service users will comply with applicable provisions of section 6(d) of this appendix.

11. Appeal

Service users or sponsoring Federal organizations may appeal any priority level assignment, denial, revision, revocation, approval, or disapproval to the Executive Office of the President within 30 days of notification to the service user. The appellant must use the form or format required by the Executive Office of the President and must serve the FCC with a copy of its appeal. The Executive Office of the President will act on the appeal within 90 days of receipt. Service users and sponsoring Federal organizations may only then appeal directly to the FCC. Such FCC appeal must be filed within 30 days of notification of the Executive Office of the President's decision on appeal. Additionally, the Executive Office of the President may appeal any FCC revisions, approvals, or disapprovals to the FCC. All appeals to the FCC must be submitted using the form or format required. The party filing its appeal with the FCC must include factual details supporting its claim and must serve a copy on the Executive Office of the President and any other party directly involved. Such party may file a response within 20 days, and replies may be filed within 10 days thereafter. The Commission will not issue public notices of such submissions. The Commission will provide notice of its decision to the parties of record. Any appeals to the Executive Office of the President that include a claim of new information that has not been presented before for consideration may be submitted at any time.

12. NSEP TSP System Categories, Criteria, and Priority Levels

a. *General.* NSEP TSP System categories and criteria, and permissible priority level assignments, are defined and explained below.

(1) The Essential NSEP category has four subcategories: National Security Leadership; National Security Posture and U.S. Population Attack Warning; Public Health, Safety, and Maintenance of Law and Order; and Public Welfare and Maintenance of National Economic Posture. Each subcategory has its own criteria. Criteria are also shown for the Emergency NSEP category, which has no sub-categories.

(2) Priority levels of "1," "2," "3," "4," and "5" may be assigned for provisioning and/or restoration of Essential NSEP telecommunication services. However, for Emergency NSEP telecommunications services, a priority level "E" is assigned for provisioning. A restoration priority level from "1" through "5" may be assigned if an Emergency NSEP service also qualifies for such a restoration priority level under the Essential NSEP category.

(3) The NSEP TSP System allows the assignment of priority levels to any NSEP telecommunications service across three time periods, or stress conditions: Peacetime/Crisis/Mobilization, Attack/War, and Post-Attack/Recovery. Priority levels will normally be assigned only for the first time period. These assigned priority levels will apply through the onset of any attack, but it is expected that they would later be revised by surviving authorized telecommunication resource managers within the Executive Office of the President based upon specific facts and circumstances arising during the Attack/War and Post-Attack/Recovery time periods.

(4) Service users may, for their own internal use, assign subpriorities to their services assigned priority levels. Receipt of and response to any such subpriorities is optional for service vendors.

(5) The following paragraphs provide a detailed explanation of the categories, subcategories, criteria, and priority level assignments, beginning with the Emergency NSEP category.

b. *Emergency NSEP.* Telecommunications services in the Emergency NSEP category are those new services so critical as to be required to be provisioned at the earliest possible time, without regard to the costs of obtaining them.

(1) *Criteria.* To qualify under the Emergency NSEP category, the service must meet criteria directly supporting or resulting from at least one of the following NSEP functions:

(a) Federal government activity responding to a Presidentially declared disaster or

emergency as defined in the Disaster Relief Act (42 U.S.C. 5122).

(b) State or local government activity responding to a Presidentially declared disaster or emergency.

(c) Response to a state of crisis declared by the National Command Authorities (e.g., exercise of Presidential war emergency powers under section 706 of the Communications Act.)

(d) Efforts to protect endangered U.S. personnel or property.

(e) Response to an enemy or terrorist action, civil disturbance, natural disaster, or any other unpredictable occurrence that has damaged facilities whose uninterrupted operation is critical to NSEP or the management of other ongoing crises.

(f) Certification by the head or director of a Federal agency, commander of a unified/specified command, chief of a military service, or commander of a major military command, that the telecommunications service is so critical to protection of life and property or to NSEP that it must be provided immediately.

(g) A request from an official authorized pursuant to the Foreign Intelligence Surveillance Act (50 U.S.C. 1801 *et seq.* and 18 U.S.C. 2511, 2518, 2519).

(2) *Priority Level Assignment.*

(a) Services qualifying under the Emergency NSEP category are assigned priority level "E" for provisioning.

(b) After 30 days, assignments of provisioning priority level "E" for Emergency NSEP services are automatically revoked unless extended for another 30-day period. A notice of any such revocation will be sent to service vendors.

(c) For restoration, Emergency NSEP services may be assigned priority levels under the provisions applicable to Essential NSEP services (see section 12(c)). Emergency NSEP services not otherwise qualifying for restoration priority level assignment as Essential NSEP may be assigned a restoration priority level "5" for a 30-day period. Such 30-day restoration priority level assignments will be revoked automatically unless extended for another 30-day period. A notice of any such revocation will be sent to service vendors.

c. *Essential NSEP.* Telecommunication services in the Essential NSEP category are those required to be provisioned by due dates specified by service users, or restored promptly, normally without regard to associated overtime or expediting costs. They may be assigned priority level of "1," "2," "3," "4," or "5" for both provisioning and restoration, depending upon the nature and urgency of the supported function, the impact of lack of service or of service interruption upon the supported function, and, for priority access to public switched services, the user's level of responsibility. Priority level assignments will be valid for no more than three years unless revalidated. To be categorized as Essential NSEP, a telecommunications service must qualify under one of the four following subcategories: National Security Leadership; National Security Posture and U.S. Population Attack Warning; Public Health, Safety and Maintenance of Law and Order; or Public Welfare and Maintenance of National Economic Posture. (Note.—Under emergency circumstances, Essential NSEP telecommunication services may be recategorized as Emergency NSEP and assigned a priority level "E" for provisioning.)

(1) *National security leadership.* This subcategory will be strictly limited to only those telecommunication services essential to national survival if nuclear attack threatens or occurs, and critical orderwire and control services necessary to ensure the rapid and efficient provisioning or restoration of other NSEP telecommunication services. Services in this subcategory are those for which a service interruption of even a few minutes would have serious adverse impact upon the supported NSEP function.

(a) *Criteria.* To qualify under this subcategory, a service must be at least one of the following:

(i) Critical orderwire, or control service, supporting other NSEP functions.

(ii) Presidential communications service critical to continuity of government and national leadership during crisis situations.

(iii) National Command Authority communications service for military command and control critical to national survival.

(iv) Intelligence communications service critical to warning of potentially catastrophic attack.

(v) Communications service supporting the conduct of diplomatic negotiations critical to arresting or limiting hostilities.

(b) *Priority level assignment.* Services under this subcategory will normally be assigned priority level "1" for provisioning and restoration during the Peace/Crisis/Mobilization time period.

(2) *National security posture and U.S. population attack warning.* This subcategory covers those minimum additional optimum defense, diplomatic, or continuity-of-government postures before, during, and after crises situations. Such situations are those ranging from national emergencies to international crises, including nuclear attack. Services in this subcategory are those for which a service interruption ranging from a few minutes to one day would have serious adverse impact upon the supported NSEP function.

(a) *Criteria.* To qualify under this subcategory, a service must support at least one of the following NSEP functions:

(i) Threat assessment and attack warning.

(ii) Conduct of diplomacy.

(iii) Collection, processing, and dissemination of intelligence.

(iv) Command and control of military forces.

(v) Military mobilization.

(vi) Continuity of Federal government before, during, and after crises situations.

(vii) Continuity of state and local government functions supporting the Federal government during and after national emergencies.

(viii) Recovery of critical national functions after crises situations.

(ix) National space operations.

(b) *Priority level assignment.* Services under this subcategory will normally be assigned priority level "2," "3," "4," or "5" for provisioning and restoration during Peacetime/Crisis/Mobilization.

(3) *Public health, safety, and maintenance of law and order.* This subcategory covers the minimum number of telecommunication services necessary for giving civil alert to the U.S. population and maintaining law and order and the health and safety of the U.S. population in times of any national, regional, or serious local emergency. These services are those for which a service interruption ranging from a few minutes to one day would have serious adverse impact upon the supported NSEP functions.

(a) *Criteria.* To qualify under this subcategory, a service must support at least one of the following NSEP functions:

(i) Population warning (other than attack warning).

(ii) Law enforcement.

(iii) Continuity of critical state and local government functions (other than support of the Federal government during and after national emergencies).

(vi) Hospitals and distributions of medical supplies.

(v) Critical logistic functions and public utility services.

(vi) Civil air traffic control.

(vii) Military assistance to civil authorities.

(viii) Defense and protection of critical industrial facilities.

(ix) Critical weather services.

(x) Transportation to accomplish the foregoing NSEP functions.

(b) *Priority level assignment.* Service under this subcategory will normally be assigned priority levels "3," "4," or "5" for provisioning and restoration during Peacetime/Crisis/Mobilization.

(4) *Public welfare and maintenance of national economic posture.* This subcategory covers the minimum number of telecommunications services necessary for maintaining the public welfare and national economic posture during any national or regional emergency. These services are those for which a service interruption ranging from a few minutes to one day would have serious adverse impact upon the supported NSEP function.

(a) *Criteria.* To qualify under this subcategory, a service must support at least one of the following NSEP functions:

(i) Distribution of food and other essential supplies.

(ii) Maintenance of national monetary, credit, and financial systems.

(iii) Maintenance of price, wage, rent, and salary stabilization, and consumer rationing programs.

(iv) Control of production and distribution of strategic materials and energy supplies.

(v) Prevention and control of environmental hazards or damage.

(vi) Transportation to accomplish the foregoing NSEP functions.

(b) *Priority level assignment.* Services under this subcategory will normally be assigned priority levels "4" and "5" for provisioning and restoration during Peacetime/Crisis/Mobilization.

d. *Limitations.* Priority levels will be assigned only to the minimum number of telecommunication services required to

support an NSEP function. Priority levels will not normally be assigned to backup services on a continuing basis, absent additional justification, *e.g.*, a service user specifies a requirement for physically diverse routing or contracts for additional continuity-of-service features. The Executive Office of the President may also establish limitations upon the relative numbers of services which may be assigned any restoration priority level. These limitations will not take precedence over laws or executive orders. Such limitations shall not be exceeded absent waiver by the Executive Office of the President.

e. *Non-NSEP services.* Telecommunication services in the non-NSEP category will be those which do not meet the criteria for either Emergency NSEP or Essential NSEP.

[FR Doc. 88-27108 Filed 11-22-88; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Parts 387, 390, 391, and 395

[FHWA Docket No. MC-114]

RIN 2125-AA34

Federal Motor Carrier Safety Regulations; General; Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Corrections to final rule.

SUMMARY: This document includes seven technical amendments: Five technical amendments correct the final rule that appeared in the **Federal Register** on Thursday, May 19, 1988 (53 FR 18042); one amendment corrects a typographical error in 49 CFR 387.41 that appeared in the final rule addressing minimum levels of financial responsibility for motor carriers which was published in the **Federal Register** on Monday, November 21, 1983 (48 FR 52683); and one amendment that corrects typographical errors in 49 CFR 395.2 and 395.13 that appeared in the final rule addressing hours of service of drivers and the use of automatic on-board recording devices which was published in the **Federal Register** on Friday, September 30, 1988 (53 FR 38666). The first correction is necessary to reinstate an exemption in 49 CFR 391.2 for certain farm vehicle drivers which was inadvertently omitted from the final rule. The second correction amends 49 CFR 390.5 by removing a definition that is not needed.

The third correction amends 49 CFR 390.5 by revising the definition "exempt intracity zone" to make it comport with the FHWA's original intent. The fourth correction amends 49 CFR 390.27 to correctly state the addresses of FHWA's regional motor carrier safety offices. The fifth correction amends 49 CFR 387.41 so that the provisions of the section will be clearly understood and the rule will correctly reflect a reorganization within the agency. The sixth correction amends 49 CFR 390.21 so that the provisions of the section are consistent. The seventh correction redesignates a paragraph in 49 CFR 395.2 and amends 49 CFR 395.13 so that the referral to another section is correct.

EFFECTIVE DATE: November 15, 1988.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas P. Kozlowski, Office of Motor Carrier Standards, (202) 366-2981, or Mr. Thomas P. Holian, Office of the Chief Counsel, (202) 366-1350, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: In a notice of proposed rulemaking (NPRM) published in the **Federal Register** at 52 FR 26278 on July 13, 1987, the FHWA proposed to amend Part 390 of the Federal Motor Carrier Safety Regulations (FMCSRs), and to make certain conforming amendments to other Parts of the FMCSRs. Inadvertently, it was proposed to remove § 391.2(c), which exempted certain farm vehicle drivers from the driver qualification rules of Part 391, while leaving the partial exemption for drivers of articulated (combination) farm vehicles, which appears at § 391.67, intact. The farm driver exemptions found in § 391.2 and § 391.67 have been in effect since December 22, 1971, and were issued to meet specific, unique transportation needs of the country's farm community. We have received no evidence that those needs have changed and the FHWA received no comments regarding the removal of § 391.2(c). In view of the fact that the removal of § 391.2(c) in the final rule that was published in the **Federal Register** on Thursday, May 19, 1988 (53 FR 18042) was inadvertent, the FHWA is reinstating § 391.2(c).

The second technical amendment made today corrects § 390.27, Locations of regional motor carrier safety offices, to reflect several recent address changes which were not incorporated in the final rule that was published in the **Federal Register** on Thursday, May 19, 1988 (53 FR 18042).

Section 390.5, Definitions, as published in the **Federal Register** on May 19, 1988 (53 FR 18054), contained a definition of "taxicab." Since vehicles having a gross vehicle weight rating (GVWR) of 10,000 pounds or less or vehicles designed to transport less than 15 passengers, including the driver, are not subject to the FMCSRs, the definition of "taxicab" is not needed and is, therefore, being removed.

The definition of "exempt intracity zone" also published in the **Federal Register** on May 19, 1988 (53 FR 18054) is amended to make it comport with the FHWA's original intent. In describing exempt intracity zones, the FHWA intended to refer to the ICC definition of a "commercial zone" simply for purposes of delineating the geographic area within which a driver or vehicle otherwise subject to the agency's safety regulations would be exempt from those requirements. It was not the FHWA's intent to limit the exemption to those drivers who were "not under a common control, management, or arrangement for a continuous carriage or shipment." *See* 49 CFR 1048.101 (republished as section 44 of Appendix F to Subchapter B, 53 FR 18042, 18069 (1988)). In fact, drivers under such common control, management, or arrangement were subject to a similar ICC exemption when operating in "terminal areas." 49 U.S.C. 10523. The amendment to the definition of "exempt intracity zone" is intended to make clear that it applies to drivers in these geographic locations regardless of whether the driver is under a common control, management, or arrangement for a continuous carriage or shipment.

The financial responsibility requirements for motor carriers was published in the **Federal Register** on Monday, November 21, 1983 (48 FR 52653). Section 387.41, Violation and penalty, was originally published with a typographical error that changed the intended meaning of the section. The word "capability" was used when the proper word for the appropriate sentence should have been "culpability." This error was discovered recently and is not being corrected by this technical amendent. This technical correction also reflects a reorganization within the agency.

Paragraph (b)(4) of § 390.21, Marking of motor vehicles, refers to paragraphs (b)(1) and (b)(2), but should also have referred to (b)(3) for completeness (pertaining to information which must be marked on a motor vehicle). The omission of (b)(3) from this paragraph was inadvertent, and paragraph (b)(4) is being revised to include the reference to paragraph (b)(3).

A final rule concerning automatic on-board recording devices was published in the **Federal Register** on Monday, September 30, 1988 (53 FR 39666). This rule included a definition of "automatic

on-board recording device," but it incorrectly designated this definition as paragraph (k). That paragraph should have been designated as paragraph (i) to conform to changes made on May 19, 1988. *See* 53 FR 18958. Also, § 395.13(b)(2) referred incorrectly to the provisions of "§ 395.13." That typographical error is being corrected by changing the referral to "§ 395.15."

Finally, the agency has received several calls questioning the discussion concerning rescission of the intracity zone exemption that begins on page 18046 of the May 19, 1988, **Federal Register.** The discussion heading incorrectly appears as "Exempt Intercity Operation Drivers." The heading should have read "Exempt Intracity Operation Drivers." Two additional references to "intercity zones" were incorrectly made in the body of the discussion. These were typographical errors made during printing preparation. The entire discussion addresses the "intracity zone exemption" and should be interpreted that way.

List of Subjects in 49 CFR Parts 387, 390, and 391

Highway safety, Highways and roads, Financial responsibility, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements, Motor vehicle safety.

In view of the above, the FHWA is amending 49 CFR Parts 387, 390, 391, and 395 as follows:

PART 387—[AMENDED]

1. The authority citation for Part 387 is revised to read as follows:

Authority: 49 U.S.C. 10927 *note*; 49 CFR 1.48.

2. Section 387.41 is revised to read as follows:

§ 387.41 Violation and penalty.

Any person (except an employee who acts without knowledge) who knowingly violates the rules of this subpart shall be liable to the United States for civil penalty of no more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation will constitute a separate offense. The amount of any such penalty shall be assessed by the Associate Administrator for Motor Carriers or his designee, by written notice. In determining the amount of such penalty, the Associate Administrator or his designee shall take into account the nature, circumstances, extent, the gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

PART 390—[AMENDED]

3. The authority citation for Part 390 continues to read as follows:

Authority: 49 U.S.C. App. 2503 and 2505; 49 U.S.C. 3102 and 3104; 49 CFR 1.48.

4. Section 390.27 is revised to read as follows:

§ 390.27 Locations of regional motor carrier safety offices.

Region No.	Territory included	Location of regional office
1	Connecticut, Maine, Massachusetts, New Jersey, New Hampshire, New York, Rhode Island, Vermont, Puerto Rico, and the Virgin Islands. That part of Canada east of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury, and thence due north to the Canadian border.	Leo W. O'Brien Federal Office Building, Room 719, Albany, NY 12207-2334.
3	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia	31 Hopkins Plaza, Federal Building, Room 1615, Baltimore, MD 21201-2819.
4	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee	1720 Peachtree Road, NW., Suite 219, Atlanta, GA 30367-2349.
5	Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin. That part of Canada west of Highways 19 and 8 from Port Burwell to Goderich, thence a straight line running north through Tobermory and Sudbury, and thence due north to the Canadian border, and east of the boundary between the Provinces of Ontario and Manitoba to Hudson Bay and thence a straight line north to the Canadian border.	18209 Dixie Highway, Homewood, IL 60430-2294.
6	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas. All of Mexico, except the States of Baja California and Sonora and the Territory of Baja California Sur., Mexico. All nations south of Mexico.	Room 8A00, Federal Building, 819 Taylor Street, Fort Worth, TX 76102-6115.
7	Iowa, Kansas, Missouri, and Nebraska	6301 Rockhill Road, P.O. Box 419715, Kansas City, MO 64141-6715.
8	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming. That part of Canada west of the boundary between the Provinces of Ontario and Manitoba to Hudson Bay and thence a straight line due north to the Canadian border, and east of Highway 95 from Kingsgate to Blaeberry and thence a straight line due north to the Canadian border.	555 Zang Street, Room 400, Lakewood, CO 80228-1014.
9	Arizona, California, Hawaii, Nevada, Guam, American Samoa, and Mariana Islands. The States of Baja California and Sonora, Mexico, and the Territory of Baja California Sur., Mexico.	211 Main Street, Room 1108, San Francisco, CA 94105-1926.
10	Alaska, Idaho, Oregon, and Washington. That part of Canada west of Highway 95 Kingsgate to Blaeberry and thence a straight line due north to the Canadian border, and all the Province of British Columbia.	Mohawk Building, Room 312, 708 SW. Third Avenue, Portland, OR 97204-2491.

5. In § 390.5, the definition of *"taxicab"* is removed and the definition of "Exempt intracity zone" is revised to read as follows:

§ 390.5 Definitions.

* * * * *

"Exempt intracity zone" means the geographic area of a municipality or the commercial zone of that municipality described by the ICC in 49 CFR Part 1048, revised as of October 1, 1975. The descriptions are printed in Appendix F to Subchapter B of this chapter. The term "exempt intracity zone" does not include any municipality or commercial zone in the State of Hawaii. For purposes of § 390.3(g), a driver may be considered to operate a vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone.

* * * * *

6. in § 390.21, paragraph (b)(4) is revised to read as follows:

§ 390.21 Marking of motor vehicles.

* * * * *

(b) * * *

(4) If the name of any person other than the operating carrier appears on

the motor vehicle operated under its own power, either alone or in combination, the name of the operating carrier shall be followed by the information required by paragraphs (b)(1), (2), and (3) of this section, and be preceded by the words *"operated by."*

* * * * *

PART 391—[AMENDED]

7. The authority citation for Part 391 continues to read as follows:

Authority: 49 U.S.C. App. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.

8. In § 391.2, paragraph (c) is reinstated and reads as follows:

§ 391.2 General exemptions.

* * * * *

(c) *Certain farm vehicle drivers.* The rules in this part do not apply to a farm vehicle driver except a farm vehicle driver who drives an articulated (combination) motor vehicle that has a gross weight, including its load, of more than 10,000 pounds. (For limited exemptions for farm vehicle drivers of heavier articulated vehicles see § 391.67.)

PART 395—[AMENDED]

9. The authority citation for Part 395 continues to read as follows:

Authority: 49 U.S.C. 3102; 49 U.S.C. App. 2505; and 49 CFR 1.48.

§ 395.2 [Amended]

10. In § 395.2, paragraph (k) is redesignated as paragraph (i).

11. In § 395.13, paragraph (b)(2) is revised to read as follows:

§ 395.13 Drivers declared out of service.

* * * * *

(b) * * *

(2) No driver required to maintain a record of duty status under § 395.8 or § 395.15 of this part shall fail to have a record of duty status current on the day of examination and for the prior seven consecutive days.

* * * * *

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this section with the Unified Agenda.

(Catalog of Federal Domestic Assistance Program No. 20.217, Motor Carrier Safety.)

Issued on November 16, 1988.

Anthony J. McMahon,

Chief Counsel, Federal Highway Administration.

[FR Doc. 88-27032 Filed 11-22-88; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 71147-8002]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of closure.

SUMMARY: NOAA announces closure of the Bering Sea subarea to fruther retention of other rockfish and sablefish by U.S. vessels. This action, taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bearing Sea and Aleutian Islands Area (FMP), limits retention of other rockfish and sablefish to the amount specified for total allowable catch (TAC).

DATES: Effective November 19, 1988, 12 noon AST (2100 GMT). Comments will be accepted through December 5, 1988.

ADDRESS: Comments should be mailed to James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802-1668, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Mike Sigler, Fishery Research Biologist, NMFS, 907-586-7230.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the exclusive economic zone (EEZ) under the Magnuson Fishery Conservation and Management Act, is implemented by rules appearing at 50 CFR Parts 611 and 675.

Under § 675.20(a)(8), the Director, Alaska Region, NMFS has determined that the total allowable catches (TACs) of other rockfish and sablefish in the Bearing Sea subarea will be reached by 1200 AST (2100 GMT) November 19, 1988. After this time, U.S. fishermen must treat other rockfish and sablefish in the same manner as prohibited species, as described in § 675.20(c), for the remainder of the fishing year.

Other notices concerning other rockfish were effective January 1, 1988 (53 FR 894, January 14, 1988) and September 30, 1988 (53 FR 3907, October 5, 1988). Other notices concerning sablefish were effective January 1, 1988 (53 FR 894, January 14, 1988), June 11, 1988 (53 FR 22328, June 5, 1988), and September 28, 1988 (53 FR 38725, October 3, 1988).

Classification

This action is taken under the authority of 50 CFR 675.20(a)(8) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice is necessary to prevent the TACs for other rockfish and sablefish in the Bering Sea subarea from being exceeded.

Interested persons are invited to submit comments in writing to the above address for 15 days after the effective date of this notice.

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 18, 1988.

Alan Dean Parsons,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-27128 Filed 11-18-88; 4:09 am]

BILLING CODE 3510-22-M

50 CFR Part 675

[Docket No. 71147-8002]

Groundfish of the Bering Sea and Aleutian Islands Area

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustment and reopening.

SUMMARY: NOAA announces (1) the apportionment of amounts of pollock to domestic fishermen delivering fish to foreign processors (JVP) from amounts originally apportioned to domestic fishermen processing fish or delivering fish to domestic processors (DAP) and (2) the reopening of the Bering Sea subarea to directed JVP fishing for pollock. These actions, taken under provisions of the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP), are necessary to assure optimum use of pollock by allowing JVP fishing in the Bering Sea subarea to resume. They are intended as a conservation measure to comply with the objectives of the FMP.

DATES: Effective November 20, 1988, noon A.s.t. (2100 G.m.t.). Comments will be accepted through December 5, 1988.

ADDRESS: Comments should be mailed to James W. Brooks, Acting Director, Alaska Region, National Marine Fisheries Service, P.O. Box 201668, Juneau, AK 99802, or be delivered to Room 453, Federal Building, 709 West Ninth Street, Juneau, Alaska.

FOR FURTHER INFORMATION CONTACT: Patricia Peacock, Resource Management Specialist, NMFS, 907–586–7230.

SUPPLEMENTARY INFORMATION: The FMP, which governs the groundfish fishery in the U.S. exclusive economic zone under the Magnuson Fishery Conservation and Management Act, is implemented by rules appearing at 50 CFR 611.93 and Part 675.

In 1988, 15 percent of the Total Allowable Catch (TAC) for groundfish in the Bering Sea and Aleutian Islands Management Area was placed in the non-specific reserve, the initial specifications for DAP were determined, and the remaining amounts were provided to domestic fishermen delivering fish to foreign processors (53 FR 894, January 14, 1988). No initial specification was provided for TALFF because U.S. fishermen are able to harvest and/or process the TAC.

The following prior in-season actions during 1988 have apportioned amounts of groundfish from the reserve to DAP and/or JVP, or amounts from DAP to JVP: April 14 (53 FR 12772, April 19, 1988), May 5 (53 FR 16552, May 10, 1988), May 20 (53 FR 19303, May 25, 1988), June 17 (53 FR 23402, June 22, 1988), July 11 (53 FR 26599, July 14, 1988), July 22 (53 FR 28229, July 27, 1988), August 25 (53 FR 33140, August 30, 1988), September 6 (53 FR 35081, September 9, 1988), September 28 (53 FR 38725, October 3, 1988), September 30 (53 FR 39097, October 5, 1988), and October 14 (53 FR 40894, October 19, 1988).

Reapportionment to JVP

The Director, Alaska Region, NMFS (Regional Director) has determined from DAP catch-to-date and the NMFS DAP survey completed in November, 1988, that DAP will harvest and process 526,000 metric tons (mt) of pollock in the Bering Sea subarea by the end of 1988. The current (early-November) DAP catch of Bering Sea subarea pollock (380,715 mt) is 71 percent of the 536,162 mt quota. For this reason, the Regional Director has determined that the current DAP amount of Bering Sea subarea pollock is excess to DAP needs in 1988. Therefore, 10,000 mt of the DAP amount for Bering Sea subarea pollock is transferred to the JVP amount for Bering Sea subarea pollock (Table 1).

Reopening

U.S. fishermen delivering to foreign processors were required by NMFS to cease directed fishing for pollock in the Bering Sea subarea on October 6 (53 FR 39479, October 7, 1988) to leave sufficient quota to provide bycatch of this species in other JVP fisheries. This notice increases the JVP amount for pollock to an amount that may be taken in directed fisheries. Therefore, foreign processors may resume the receipt of pollock harvested from the Bering Sea subarea or may resume the receipt of pollock within the Bering Sea subarea as of noon, A.s.t. November 20, 1988. This notice reverses the closure to the directed JVP fishery for pollock in the Bering Sea subarea (see 53 FR 39479, October 7, 1988).

Classification

This action is taken under the authority of 50 CFR 675.20(b) and complies with Executive Order 12291.

The Assistant Administrator for Fisheries finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment. Immediate effectiveness of this notice will allow JVP fishermen to begin directed fishing for Bering Sea pollock. Interested persons are invited to submit comments in writing to the address above for 15 days after the effective date of this notice, in accordance with § 675.20(b)(2)(i).

List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 18, 1988.

Alan Dean Parsons,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

TABLE 1.—BERING SEA/ALEUTIANS REAPPORTIONMENTS OF INITIAL TAC

[All values are in metric tons]

		Current	This action	Revised
Pollock (Bering Sea subarea)	DAP	536,162	−10,000	526,162
TAC=1,312,000; ABC=1,500,000	JVP	775,838	+10,000	785,838
Total (TAC=2,000,000)	DAP	700,173	−10,000	690,173
	JVP	1,291,634	+10,000	1,301,634
	Reserve	8,193	(1)	8,193

(1) No change.

[FR Doc. 88–27129 Filed 11–18–88; 4:15 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 53, No. 226
Wednesday, November 23, 1988

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

10 CFR Part 430

[Docket No. CAS-RM-80-118]

Energy Conservation Program for Consumer Products; Proposed Rulemaking and Public Hearing Regarding Test Procedures for Refrigerators, Refrigerator-Freezers and Freezers

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Proposed rule: Correction.

SUMMARY: On September 26, 1988 (53 FR 37416), DOE published a proposed rule to amend test procedures for refrigerators, refrigerator-freezers, and freezers. This document corrects the errors in that notice.

FOR FURTHER INFORMATION CONTACT: Douglass S. Abramson, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC, 20585, (202) 586-9507.

Issued in Washington, DC., November 17, 1988.

John R. Berg,

Acting Assistant Secretary Conservation and Renewable Energy.

PART 430—[CORRECTED]

Appendix A1 to Subpart B—[Corrected]

1. In Appendix A1 to Subpart B of Part 430, 5.2.1.3 Variable Defrost Control the equation for calculating "CT" is corrected as follows:

5.2.1.3

* * * * *

$$CT=(CT_L\times CT_M)/(F\times (CT_M-CT_L)+CT_L)$$

* * * * *

Appendix B1 to Subpart B—[Corrected]

2. In Appendix B1 to Subpart B of 430, 5.2.1.3 Variable Defrost Control the equation for calculating "CT" is corrected as follows:

* * * * *

$$CT=(CT_L\times CT_M)/(F\times (CT_M-CT_L)+CT_L)$$

* * * * *

[FR Doc. 88-27142 Filed 11-22-88; 8:45 am]

BILLING CODE 6450-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 125

Procurement Automated Source System

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) is proposing to amend its regulations relating to the collection of fees and distribution of user guides in connection with the Procurement Automated Source System (PASS). The purpose of these amendments is to facilitate an expansion of the number of users which had to date been limited by certain contract provisions. The primary effect of these changes would be to free the expansion of PASS from the constraints of the Agency's budget process, while retaining the Agency's own access to the system and its control over fundamental decisions related to the operation of the system.

DATES: Comments must be submitted on or before December 8, 1988.

ADDRESS: Comments should be submitted to Jonathan H. Mertz, Special Assistant to the Associate Administrator for Procurement Assistance, 1441 L Street, NW., Room 600, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Jonathan H. Mertz (202) 653-6635.

SUPPLEMENTARY INFORMATION: Under current procedures the Small Business Administration maintains a Procurement Automated Source System (PASS) through a private contractor and allows small and large businesses and government agencies direct access to the system. This proposed rule is in connection with a proposed restructuring of the contract fee arrangements for the PASS system.

Under existing provisions, the contractor receives a monthly base user interface fee, and fixed fee per user for any users above the number allowed under the base user interface fee, both paid by the Agency. The number of base users is set and the number of additional users is theoretically unlimited. Under the current provisions of the contract, Agency funding levels would restrict the ultimate number of system users.

The proposed rule would eliminate the requirement that all user receipts be credited to the agency and would make the contractor responsible for all accounts receivable and collection duties. The rule would also reduce the number of manuals required to be distributed to each new user from two to one.

Compliance With Executive Order 12291, Executive Order 12612, the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) and the Paperwork Reduction Act (44 U.S.C. Ch. 35).

Executive Order 12291

For the purposes of E.O. 12291, SBA has determined that this proposed rule would not be a major rule if promulgated in final form because it would not have an annual effect on the economy of $100 million or more; or cause a major increase in costs for consumers, individuals, industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based businesses to compete with foreign-based businesses in domestic or export markets. The total anticipated PASS budget would be $1.2 million for fiscal year 1989 and the number of additional users are estimated at 150. Assuming normal use, the additional users would be expected to generate approximately $43,200 per year in user fees. This assumes the current user fee rate of $24 per hour of usage. This is well below the $100 million annual floor specified by E.O. 12291.

Executive Order 12612

This proposed rule would not have federalism implications warranting the preparation of a Federal Assessment in accordance with E.O. 12612.

Regulatory Flexibility Act

For purposes of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), SBA certifies that this rule, if

promulgated in final form, would not have a significant economic impact on a substantial number of small entities. The direct effects of this rule would be on the PASS contractor and on those users who would receive one fewer training manual. Additionally, most PASS users are not small businesses.

Paperwork Reduction Act

If promulgated in final form, this rule would not impose any reporting or recordkeeping requirements which would be subject to the Paperwork Reduction Act, 44 U.S.C. ch. 35.

List of Subjects in 13 CFR Part 125

Government procurement, Small business, Technical assistance.

For reasons set forth above, Title 13, Part 125 of the Code of Federal Regulations, is proposed to be amended as follows:

PART 125—[AMENDED]

1. The authority citation for Part 125 continues to read as follows:

Authority: Section 610(a) of Pub. L. 100–202, 101 Stat. 1339, secs. 5(b) (6), 8 and 15 of the Small Business Act, 72 Stat. 384, as amended (15 U.S.C. 631 *et seq.*), 31 U.S.C. 9701, 9702, 96 Stat. 1051).

§ 125.10 [Amended]

2. Section 125.10(b) is amended by removing from the sentence which begins "The contractor will bill SBA * * * " the phrase "minus any fees it collects from non-SBA users," and substituting in the sentence beginning "Each PASS ID entitles * * * " the phrase "one PASS User Guide" for "two PASS User Guides."

Dated: November 17, 1988.

James Abdnor,

Administrator.

[FR Doc. 88–27043 Filed 11–22–88; 8:45 am]

BILLING CODE 6025–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL–3480–6]

Approval and Promulgation of Air Quality Implementation Plans; Ohio; Ozone

AGENCY: U.S. Environmental Protection Agency (USEPA)

ACTION: Proposed rule.

SUMMARY: USEPA is proposing to approve a site-specific revision to the ozone portion of the Ohio State Implementation Plan (SIP) for the Goodyear Tire and Rubber Company (Goodyear) in St. Marys, Ohio. The proposed revision was submitted in the form of variances for Goodyear lines K001 to K019, and exempts them from the requirements contained in Ohio Administrative Code (OAC) Rule 3745–21–09(U). The variances also limit the total volatile organic compound (VOC) emissions from the lines to 225 tons per year. USEPA is proposing approval of this revision because the source is located in Auglaize County. Auglaize County has always been designated as a rural attainment/unclassified area for ozone and, thus, the existing control requirements are not required by the Clean Air Act.

DATE: Comments must be received on or before December 23, 1988.

ADDRESSES: Copies of the SIP revision request are available for public inspection during normal business hours at the following addresses for review: (It is recommended that you telephone Debra Marcantonio, at (312) 886–6088, before visiting the Region V office).

Air and Radiation Branch, Region V, 5AR–26, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 1800 WaterMark Drive, P.O. Box 1049, Columbus, Ohio 43266–0149.

Comments on this proposed rule should be addressed to: (Please submit an original and three copies, if possible.) Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR–26), U.S. Environmental Protection Agency, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Debra Marcantonio at (312) 886–6088).

SUPPLEMENTARY INFORMATION CONTACT: USEPA approved the Ohio VOC rules as part of the ozone SIP as meeting the reasonable available control technology (RACT) Part D requirements of the Clean Air Act on October 31, 1980 (45 FR 72122), and June 29, 1982 (47 FR 28097).[1] Although RACT VOC regulations are required by PART D of the Clean Air Act in all ozone nonattainment areas. Ohio's rules are applicable to both attainment and nonattainment areas.

On June 1, 1987, the Ohio Environmental Protection Agency (OEPA) submitted a revision to its ozone SIP for the Goodyear Tire and Rubber Company (Goodyear) in St. Marys, Ohio. The proposed revision request was submitted in the form of variances for the Goodyear sources. The variances exempt Goodyear lines K001 to K019 from the requirements contained in Ohio Administrative Code (OAC) Rule 3745–21–09(U). The variances also limit the total volatile organic compound (VOC) emissions from the lines (K001 to K019) to 255 tons of volatile organic compounds per year. (These lines are used to coat metal).

The State requested that this revision be approved as a site-specific RACT determination for Goodyear. As discussed below, this revision is not approvable as a site-specific RACT determination because it does not meet all of USEPA's requirements. However, the revision can be approved as a relaxation from RACT requirements.

This source is located in Auglaize County. Auglaize County has always been designated as a rural attainment/unclassified area for ozone. Therefore, RACT (the existing control requirements in the approved SIP) is not required by the Clean Air Act in this area.

Evaluation of Revision as a Site-Specific RACT Determination

The State attempted to demonstrate that the existing control requirement (3.5 pounds of VOC per gallon of coating, excluding water limit) does not represent RACT for Goodyear and requested a site-specific RACT determination. In order for a site-specific RACT determination to be approvable, a source must demonstrate that it is either technically or economically infeasible to meet an emission rate limit lower than that proposed as site-specific RACT for the source.

Reductions in VOC emissions may be obtained either by reducing the VOC content of the coatings or by installing control systems to capture and destroy the VOC before they escape into the ambient air. Therefore, it must be demonstrated that both of these control methods are either technically or economically infeasible at the facility.

1. VOC Content of Coatings

The State submitted correspondence between Goodyear and its two adhesive suppliers in order to document that complying adhesives are not available. However, this correspondence does not adequately demonstrate that complying adhesives are not available. Both of the suppliers indicated that they currently have some waterbased adhesives

[1] RACT is defined as the lowest emission rate that a source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility.

available and are working to develop others. In addition, the State did not submit documentation which shows that Goodyear has performed an adequate investigation of additional suppliers that could reasonably be expected to provide such adhesives. A detailed discussion on the extent of such an investigation is contained in appendix A of the proposed rulemaking on the Easco action published on November 9, 1988 at (53 FR 45285). (Although the Easco action pertains to RACT requirements in a nonattainment area, the same kind of investigation applies to RACT determinations in attainment areas where there is an accommodative SIP in place.)

Additionally, even if Goodyear was able to demonstrate that it is infeasible to meet the 3.5 pounds of VOC per gallon of coating (excluding water) limit, the variance would still have to be changed to include an alternative RACT emission rate limit. Such an alternative limit would have to be documented as the lowest emission rate that Goodyear could meet using low solvent or waterbased coatings. The variance currently contains only an annual limit of 255 tons per year. A tons per year limit is not approvable as a RACT limit. A daily emission rate limit is required. (Alternatively a longer averaging time, e.g., 30 days, could be approved if the revision request met USEPA's policy on long-term averaging for VOC source emission limits which is contained in a memorandum from John O'Connor, former Acting Director of the Office of Air Quality Planning and Standards, dated January 20, 1984.)

2. Add-on Control Systems

USEPA has determined that add-on controls, specifically incinerators and carbon adsorption, are technically feasible means of limiting VOC emissions from sources in the metal surface-coating category. (Control of Volatile Organic Emissions from Existing Stationary Sources—Volume VI: Surface Coating of Miscellaneous Metal Parts and Products, EPA–450/2–78–015, pp. 2–6.) Facilities that are unable to comply with emission limits by using low-VOC coating should install add-on controls if the installation of such controls is economically reasonable.

The State has submitted a study from Goodyear to demonstrate that control of VOC emissions through add-on controls would be unreasonably costly. USEPA has reviewed this study and agrees that the cost-effectiveness as reported in the study is higher than that determined in USEPA's Control Technique Guideline for Miscellaneous Metal Parts and Products as representing RACT. Therefore, add-on control can be considered economically infeasible for this facility.

However, because the State did not demonstrate that complying adhesives are not available as noted in item #1 above, USEPA cannot approve this revision as a site-specific RACT determination. However, as discussed in detail below, this revision is approvable as a relaxation from RACT.

Evaluation of Revision as a Relaxation From RACT Requirements

Goodyear's St. Marys facility is located in Auglaize County which has been designated rural attainment/unclassified for ozone. RACT regulations were adopted in this area to accommodate growth rather than to attain the ozone standard. Therefore, this revision can be approved as a relaxation from RACT. The original basis of this accommodative ozone SIP for areas classified as attainment/unclassifiable was to require RACT level controls on existing sources, in lieu of requiring new major sources of VOC to do preconstruction monitoring. This monitoring would normally be required of new major sources in attainment/unclassifiable areas under USEPA's prevention of significant deterioration regulations. The rationale behind this tradeoff is that the "extra" emission reductions obtained from these additional RACT controls would be able to accommodate new source growth in these attainment/unclassifiable areas. Therefore, this action, when promulgated, will cancel the accommodative SIP for Auglaize County. This means that all new major VOC sources and major modifications in this county must comply with all the PSD monitoring requirements. Because this portion of the State's accommodative SIP never had any effect relative to any designated ozone nonattainment area SIP, the RACT relaxation in this notice will also have no effect on nonattainment areas. All sources wishing to locate in nonattainment areas must comply with the State's federally approved Part D new source review program.

USEPA assumes that Ohio would prefer to have this variance approved and cancel the accommodative SIP for the duration of the variance. If Ohio does not wish to have the variance approved on this basis, it should so indicate during the public comment period for this notice.

The State of Ohio has issued variances for lines K001 to K019. In addition to limiting the total volatile organic compound emissions from the lines to 255 tons per year, the variances also contain recordkeeping requirements and quarterly reporting requirements.

This SIP revision was submitted to USEPA in the form of a variance issued by the State to the Goodyear Tire and Rubber Company. This variance expires three years after final approval by USEPA. Therefore, this SIP revision is only effective for that period of time. After this period, the SIP for Goodyear reverts to the USEPA approved Ohio SIP contained in Ohio Administrative Code (OAC) Rule 3745–21–09(U). Additionally the accommodation SIP would be in place again at that time.

Proposed Action

USEPA is proposing to approve this SIP revision for the following reasons: (1) The Goodyear facility is in Auglaize County, which is a rural attainment area for ozone. The Clean Air Act does not require RACT level VOC control in areas that have always been designated attainment; and (2) Approval of this proposed SIP revision will not increase the historical VOC emission level from this source. Under USEPA existing policy, however, no demonstration of attainment and maintenance was required in the SIP for rural ozone attainment areas.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone.

Authority: 42 U.S.C. 7401–7642.

Dated: November 16, 1987.

Frank M. Covington,

Acting Regional Administrator.

Editorial Note: This document was recevied by the office of the Federal Register November 18, 1988.

[FR Doc. 88–27068 Filed 11–22–88; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 52

[FRL–3480–3]

Approval and Promulgation of Implementation Plans; Ohio

AGENCY: U.S. Environmental Protection Agency (USEPA).

ACTION: Proposed rulemaking.

SUMMARY: USEPA is proposing to approve a revision to the ozone portion of the Ohio State Implementation Plan (SIP) for Mansfield Products Company in Mansfield, Richland County, Ohio. This revision was submitted by the State as an alternative emission control program (bubble) for a primer flowcoat line (K002) and an electrostatic spray line (K005). The terms and conditions for the variance and permit for these lines limit volatile organic compound (VOC) emissions from the primer flowcoat line to 2.62 pounds of VOC per gallon of coating, excluding water, and limit VOC emissions from the electrostatic spray line to 3.45 pounds of VOC per gallon of coating, excluding water.

The revision does not meet the requirements of USEPA's December 4, 1986 (51 FR 43814), final emission trading policy statement (ETPS) and, therefore, cannot be proposed to approve this revision as a relaxation from the Reasonably Available Control Technology (RACT) requirements in the SIP, because the Clean Air Act does not require RACT level control in areas, such as Richland County, designated as attaining the National Ambient Air Quality Standards (NAAQS) for ozone.

DATE: Comments must be received on or before December 23, 1988.

ADDRESSES: Copies of the SIP revision are available at the following addresses for review. (It is recommended that you telephone Maggie Greene, at (312) 886-6029, before visitng the Region V office.)

U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5AR-26), 230 South Dearborn Street, Chicago, Illinois 60604

Ohio Environmental Protection Agency, Office of Air Pollution Control, 1800 WaterMark Drive, P.O. Box 1049, Columbus, Ohio 43266-0149.

Comments on this proposed rule should be addressed to (please submit an original and five copies if possible): Gary Gulezian, Chief, Regulatory Analysis Section, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Maggie Greene, Air and Radiation Branch (5AR-26), U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604, (312) 886-6029.

SUPPLEMENTARY INFORMATION: On September 30, 1986 and on March 30, 1987, the Ohio Environmental Protection Agency (OEPA) submitted a proposed revision to its ozone SIP for Mansfield Products Company. Mansfield Products Company, located in Mansfield, Ohio, is a manufacturer of large appliances. The company operates several surface coating lines, subject to the requirements of OAC Rule 3745-21-09(K). This rule limtis the VOC content of the coatings to 2.8 pounds of VOC per gallon of coating, excluding water.

The proposed revision of Ohio's ozone SIP for Mansfield Products Company involves a primer flowcoat line (K002) and an electrostatic spray line (K005). This revision was submitted by the State as a bubble between two large appliance surface coating lines. The special terms and conditions of the permit to operate for the primer flowcoat line and the variance for the electrostatic spray line are listed below:

1. In lieu of OAC rule 3745-21-09(K), the primer flowcoat line shall comply with the following limitations:

a. The VOC content of each coating employed in source K002 shall not exceed 2.62 pounds of VOC per gallon of coating employed, excluding water; and

b. The transfer efficiency of the coatings employed shall not be less than 85 percent.

2. In lieu of OAC rule 3745-21-09(K), the electrostatic spray line shall comply with the following limitations:

a. The VOC content of each coating employed in source K005 shall not exceed 3.45 pounds of VOC per gallon of coating employed, excluding water; and

b. The transfer efficiency of the coatings employed shall not be less than 60 percent.

3. The operation of the electrostatic spray line shall not exceed 8 hours per day and 260 days per year.

4. After December 31, 1985, the facility shall maintain daily records which list the number of washing machines and lids produced at each coating line.

5. After December 31, 1985, the facility shall maintain monthly records of coating content and usage for each coating.

Daily VOC emissions can be determined, using daily production records and monthly coating usage records.

USEPA Evaluation

In order to have a revision to the ozone SIP approved as a plan that is equivalent to RACT, the revision would have to meet both the criteria discussed below in sections 1 and 2. This revision does not meet these criteria. However, as discussed in section 3, this revision request can be approved as a relaxation from RACT for the electrostatic spray line.

1. Bubble Policy

Criteria for evaluating bubbles are contained in USEPA's December 4, 1986, final emission trading policy statement (ETPS) (51 FR 43814). This policy states that only emission reductions that are surplus, permanent, quantifiable and enforceable can be used for credit in a bubble.

Surplus reductions must be determined, using an appropriate baseline. For a source located in an attainment area (such as Richland County), the baseline is generally the lower of either the actual or allowable emissions at the time of application for credit. Actual values for capacity utilization and hours of operation are the source's average historical values for 2 years prior to application for credit. An alternate time period may be used if the State can demonstrate it to be more representative of typical operations.

The actual and allowable emissions and the change from before to after the bubble are summarized below:

Sources	Emissions (tons/year)					
	Actual			Allowable		
	Before bubble	After bubble	Change	Before bubble	After bubble	Change
Primer Flowcoat line K002	12.9	12.9	0	16.9	12.9	−4.0
Electrostatic spray line K005	7.5	7.5	0	5.2	7.5	+2.3
Total	20.4	20.4	0	22.1	20.4	−1.7

The actual emissions and the after bubble allowable emissions are based on 1984 actual solids usage. The before bubble allowable emissions are based on 1984 solids usage, the SIP limit of 2.8 pounds of VOC per gallon of coating

and the baseline transfer efficiency of 60 percent for the primer flowcoat line. Note, it is possible for both actual and allowable emissions in tons per year from the two lines to increase beyond the levels presented above, because the permit and variance contain only rate-based emission limits, which are not production level limited.

Mansfield Products submitted its bubble application to OEPA on April 11, 1985. Therefore, the baseline should be determined using the lower of either the actual or the allowable emission rate at the time of submittal to the State, and the average solids usage should be based on data from the years 1983 and 1984. At the time Mansfield Products submitted the bubble to OEPA, the actual emission rate from the primer flowcoat line was 2.62 pounds of VOC per gallon of coating, which is lower than its allowable emission rate of 2.8 pounds of VOC per gallon of coating; and thus the actual emission rate of 2.62 pounds would generally be used to determine the baseline. However, the higher allowable emission rate can be used to determine the baseline if the State demonstrates that the use of the allowable rate will not jeopardize attainment or maintenance of the applicable standard. In today's proposed rulemaking, use of the allowable value of 2.8 pounds of VOC per gallon of coating will not jeopardize maintenance of the ozone standards, because it does not result in actual total emissions above the historical levels before 1983, when actual total emissions were higher than the allowable. Ambient ozone data from 1983, and before, showed attainment of the ozone standard. See discussion of Air Quality in section 3.

With regard to the electrostatic spray line, the allowable emission rate of 2.8 pounds of VOC per gallon of coating is less than the actual emission rate of 3.45 pounds of VOC per gallon of coating. Therefore, the allowable emissions rate of 2.8 pounds of VOC per gallon of coating was appropriately used by the State to determine the baseline for the electrostatic spray line.

However, to ensure that surplus reductions are also permanent, quantifiable and enforceable, the variance and permit must contain appropriate emission limits. In order for this revision to be approved as a bubble, the variance for the electrostatic spray line must also contain a suitable mass emission cap, in addition to emission rate limits of 2.62 pounds of VOC per gallon of coating for the primer flowcoat line and 3.45 pounds of VOC per gallon of coating for the electrostatic spray line, to ensure that the actual emissions from the electrostatic spray line do not increase to the extent that there are no longer sufficient offset credits from the primer flowcoat line.

The Mansfield Products bubble does not meet USEPA's ETPS, because the bubble does not contain a suitable mass emission limit.

2. Transfer Efficiency Credit

OEPA calculated an allowable emission rate for the primer flowcoat line of 3.43 pounds of VOC per gallon of coating, using a baseline transfer efficiency of 60 percent, an actual transfer efficiency of 85 percent, and the SIP allowable emission rate of 2.8 pounds of VOC per gallon of coating, excluding water.

According to USEPA's original policy, outlined in a November 28, 1980, memorandum from G.T. Helms, Chief of the Control Programs Operations Branch in USEPA's Office of Air Quality Planning and Standards (OAQPS), entitled "Appropriate Transfer Efficiencies for Metal Furniture and Large Appliance Coating," large appliance coaters can receive credit when they achieve greater than 60 percent transfer efficiency. This memorandum also contains values to be used to determine actual transfer efficiency achieved by specific types of application equipment. However, more recent guidance indicates that these "table values" for actual transfer efficiency are no longer acceptable. An April 11, 1986, memorandum from Gerald Emison, Director, OAQPS, entitled "Response to Five VOC Issues Raised by the Regional Offices and Department of Justice" states that unless the SIP specifically incorporates values for transfer efficiency, actual measured values should be used. The Ohio SIP does not contain specific values for transfer efficiency. Therefore, in order for the Mansfield Products revision to be approved as RACT, the actual transfer efficiency of the flowcoater would have to be measured and used.

3. Air Quality

Richland County was originally designated as nonattainment for the ozone NAAQS. This was based on the assumption that nonattainment of the 0.88 ppm ozone standard (the level of the standard prior to 1979) was widespread around major urban areas. As requested by OEPA, USEPA designated Richland County as nonattainment although no in-county monitoring data were available. After the ozone standard was changed to 0.12 ppm, OEPA recognized that the assumption of widespread ozone nonattainment was no longer valid and initiated the redesignation of Richland County to attainment of the ozone standard. USEPA approved this redesignation on June 12, 1984 (49 FR 24124).

Analysis of Revision

Although this revision does not satisfy USEPA's policy requirements on emission trading or transfer efficiency and cannot be approved as a bubble, it can still be proposed for approval as a relaxation from RACT for the electrostatic spray line, because Mansfield Products Company is located in a rural attainment area for ozone and the Clean Air Act does not require RACT-level control in such areas. In addition, the revision will not cause an increase in the historical VOC emission level from the source. Under USEPA's existing policy, no demonstration of attainment and maintenance was required in the SIP for such areas. However, because the revision will allow less than RACT-level control on the electrostatic spray line, the accommodative ozone SIP for Richland County will be eliminated.

The original principle of this accommodative ozone SIP for areas classified as attainment/unclassifiable was to require RACT-level controls on existing sources, in lieu of requiring new major sources of VOC to do preconstruction monitoring. This monitoring would normally be required of new major sources in attainment/unclassifiable areas under USEPA's Prevention of Significant Deterioration (PSD) regulations. The rationale behind this tradeoff is that the "extra" emission reduction obtained from these additional RACT controls would be able to accommodate new source growth in these attainment/unclassifiable areas.

This action, if approved, will cancel the accommodative SIP for Richland County. This means that all new major VOC sources and major modifications in this county must now comply with all the PSD monitoring requirements.

Because this portion of the State's accommodative SIP never had any effect relative to any designated ozone nonattainment area SIPs, the RACT relaxation in this notice will also have no effect on nonattainment areas. All sources wishing to locate in nonattainment areas must comply with the State's Part D new source review program, as federally approved.

Proposed Action

USEPA is proposing to approve this SIP revision as a relaxation from RACT

emission limits for the following reasons:

1. Mansfield Products Company is in Richland County, which is a rural attainment area for ozone. The Clean Air Act does not require RACT-level VOC control in attainment areas; and

2. Approval of this proposed SIP revision will not cause an increase in the historical VOC emission levels from this source.

If the State wishes to correct the inconsistencies cited above in order to retain the accommodative SIP for the area, it should also review the following guidance for other potential inconsistencies: (1) Appendix D of the proposed Post-1987 ozone policy titled "Discrepencies and Inconsistencies found in Current SIPs," (2) a May 25, 1988, clarification of Appendix D titled "Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations," and (3) the "SIP Approvability Checklist—Enforceability," which is attached to a September 23, 1987, policy memorandum titled "Review of State Implementation Plan Revisions for Enforceability and Legal Sufficiency." These documents contain USEPA requirements (largely dealing with SIP approvability and enforceability) which must be met for a site-specific SIP revision to be approved in an attainment area without eliminating the accommodative SIP for the area.

USEPA is providing a 30-day comment period on this notice of proposed rulemaking. Public comments received on or before December 23, 1988, will be considered in USEPA's final rulemaking. All comments will be available for inspection during normal business hours at the Region V office.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709). Removal of the accommodative SIP for Richland County will not have a significant economic impact on a substantial number of small entities also, because it will only affect industries wishing to build major new facilities or to make a major expansion in an existing facility in Richland County.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Hydrocarbons, Ozone.

Authority: 42 U.S.C. 7401–7642.

Dated: September 28, 1987.

Frank M. Covington,

Acting Regional Administrator.

Editorial Note: This document was received by the Office of the Federal Register, November 18, 1988.

[FR Doc. 88-27069 Filed 11-22-88; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

48 CFR 512, 546 and 552

[GSAR Notice No. 5-173]

Acquisition Regulation, Inspection of Supplies

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) that would revise § 512.104 to amend the prescription for use of the Availability for Inspection, Testing and Shipment/Delivery clause; delete §§ 546.301; amend §§ 546.302, 546.302-70 and 546.302-71 to revise the sections to prescribe the new Source Inspection by Quality Approved Manufacturer and the Source Inspection clause; delete §§ 546.302-72, 546.316 and 546.316-70; amend § 552.212-72 to combine the two Availability for Inspection, Testing and Shipment/Delivery clauses currently used into a single clause with an alternate; amend § 552.242-70 to revise the Status Report of Orders and Shipments clause to change the reporting frequency from twice a month to once a month; retitle § 552.246-70 and revise the section to provide the text of the new Source Inspection by Quality Approved Manufacturer clause; delete § 552.246-72; renumber § 552.246-73 as 552.246-72 and revise the text of the Source Inspection clause; and delete §§ 552.246-74 and 552.246-77.

DATE: Comments are due in writing on or before December 23, 1988.

ADDRESS: Comments should be addressed to Ms. Marjorie Ashby, Office of GSA Acquisition Policy and Regulations (VP), 18th and F Streets NW., Room 4026, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ms. Ida Ustad, Office of GSA Acquisition Policy and Regulations, (202) 566-1224.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain procurement regulations from Executive Order 12291. This exemption applies to this proposed rule.

The proposed revisions regarding the use of various clauses and the requirements of the clauses may have an economic effect on a substantial number of small entities. Accordingly, an initial regulatory flexibility analysis has been prepared and submitted to the Chief Counsel of Advocacy of the Small Business Administration. Copies of the initial regulatory analysis are available for public comment from the office identified above.

The Status Report of Orders and Shipments clause at GSAR 552.242-70, the Source Inspection by Quality Approved Manufacturer clause at GSAR 552.246-70, and the Source Inspection clause at GSAR 552.246-72 contain information collection requirements which require the approval of OMB under section 3504(h) of the Paperwork Reduction Act. The information collections in this proposed rule have been submitted to OMB for review and approval. Comments on the information collection requirements in this proposed rule may be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Washington, DC.

The title of the first collection in this rule is "Status Report of Orders and Shipments." The clause requires contractors to submit a monthly report showing the status of processing of orders received under the contract. The contracting officer responsible for administering the contract uses the information to ensure that orders are shipped in accordance with the delivery terms established in the contract and to initiate appropriate action when orders are delinquent. The respondents are contractors awarded indefinite delivery or requirements contracts for stock replenishment items by GSA. The estimated annual burden for this collection is 4,570 hours. This is based on an estimated average burden hour per response of .083, a proposed frequency of 12 responses per respondent, and an estimated number of likely respondents of 4,570.

The title of the second collection in this rule is "Material Inspection and Receiving Report (DD Form 250 and GSA Form 308)." The clause at GSAR 552.246-70, Source Inspection by Quality Approved Manufacturer, requires the contractor prepare, sign and distribute a DD-250 for each shipment under the contract. The clause a GSAR 552.246-72, Source Inspection, requires the contractor to prepare for signature by a

Government inspector the DD–250 for deliveries to military agencies or the GSA 308 for deliveries to civilian agencies. The contractor distributes the forms after signature by the Government inspector. The information contained on the DD–250 or GSA 308 is used by various contract administration and other support offices to document contract quality assurance, acceptance of supplies, shipments, and to support payments. The information is essential to effective contract administration. The respondents are contractors awarded supply contracts by GSA that provide for source inspection. The estimated total annual burden for this collection is 263,000 hours. This is based on an estimated average burden hour per response of .5, an average proposed frequency of 115 responses per respondent, and an estimated number of likely respondents of 4,572.

List of Subjects in 48 CFR Parts 512, 546 and 552

Government procurement.

1. The authority citation for 48 CFR Parts 512, 546 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 512—[AMENDED]

Subpart 512.1—Delivery or Performance Schedules

2. Section 512.104 is amended by revising paragraph (d) to read as follows:

512.104 Contract clauses.

* * * * *

(d) The contracting officer shall insert the clause at 552.212–72, Availability for Inspection, Testing and Shipment/Delivery, in solicitations and contracts that provide for source inspection by Government personnel and that require lengthy testing for which timeframes cannot be determined in advance. If the contract is for stock items, the contracting officer shall use Alternate I.

PART 546—QUALITY ASSURANCE

546.301 [Removed]

3. Section 546.301 is removed.

4. Sections 546.302, 546.302–70 and 546.302–71 are revised to read as follows:

546.302 Fixed-price supply contracts.

546.302–70 Source inspection by quality approved manufacturer.

Contracting officers in the Federal Supply Service shall insert the clause at 552.246–70, Source Inspection by Quality Approved Manufacturer, in solicitations and contracts that provide for source inspection, except multiple award schedule contracts, motor vehicle contracts, and contracts awarded by the Special Programs Division of the General Products Commodity Center, unless the contracting officer, in conjunction with quality assurance, decides inspection by Government personnel is necessary. Contracting officers may authorize the use of manufacturing plants or other facilities located outside the United States (including Puerto Rico and Virgin Islands) under paragraph (a)(1) of the clause when (a) inspection services are available from another Federal agency on the basis of its primary inspection responsibility in a geographic area, (b) an inspection interchange agreement exists with another agency concerning inspection at a contractor's plant, (c) procurement is being made for AID and specifies the area of source(s), or (d) other considerations will ensure more economical and effective inspection consistent with the Government's interests. Such authorization must be coordinated with the appropriate quality assurance specialist and documented in the file.

546.302–71 Source inspections.

The contracting officer shall insert the clause at 552.246–72, Source Inspection, in solicitations and contracts when it is determined that inspection is to be performed at the source by Government personnel.

546.302–72, 546.316 and 546.316–70 [Removed]

5. Sections 546.302–72, 546.316 and 546.316–70 are removed.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

6. Section 552.212–72 is revised to read as follows:

552.212–72 Availability for inspection, testing and shipment/delivery.

As prescribed in 512.104(d), insert the following clause:

AVAILABILITY FOR INSPECTION, TESTING AND SHIPMENT/DELIVERY (1988)

(a) The Government requires that supplies be made available for inspection and testing within __ calender days after _____ [Insert "notice if award" or "order"] and be _____ [Insert "shipped" or "delivered"] within __ calender days after (1) notice of approval and release by the Government inspector or (2) authorization to ship without Government inspection.

(b) Failure to make supplies available for inspection and testing or to _____ [Insert "ship" or "deliver"] as required by this clause may result in termination of this contract for default.

(End of Clause)

Alternate I (1988)

If the contract is for stock items, the contracting officer shall insert "shipped" or "ship" in the basic clause, add the following paragraph (b) and redesignate paragraph (b) of the basic clause as paragraph (c).

(b) If notice of approval and release by the Government inspector or authorization to ship without Government inspection is received before __ calender days after receipt of the _____ [Insert "notice of award" or "order"], receipt of such notice shall be deemed to be received on the __ calender day after receipt of _____ [Insert "notice of award" or "order"]. Shipments shall not be made before the _____ calender day after receipt of the _____ [Insert "notice of award" or "order"] unless authorized in writing by the Contracting Officer.

7. Section 552.242–70 is revised to read as follows:

552.242–70 Status report of orders and shipments.

As prescribed in 542.1107(a), insert the following clause:

STATUS REPORT OF ORDERS AND SHIPMENTS (1988)

(a) The Contractor shall furnish to the Administrative Contracting Officer (ACO) a report covering orders received and shipments made during each calender month of contract performance. The information required by the Government shall be reported on GSA Form 1678, Status Report of Orders and Shipments, in accordance with instructions on the form, or in an automated printout form as an attachment to the GSA 1678 when authorized by the ACO. Blocks 1 through 5 of the GSA Form 1678 shall be completed and attached as a cover page to the automated report. Reports shall be forwarded to the ACO not later than the seventh workday of the succeeding month.

(b) An initial supply of GSA Form 1678 will be forwarded to the Contractor with the contract. Additional copies of the form, if needed, may be obtained from the ACO, or reproduced by the Contractor.

(End of Clause)

8. Section 552.246–70 is retitled and revised to read as follows:

552.246–70 Source inspection by quality approved manufacturer.

As prescribed in 546.302–70, insert the following clause:

SOURCE INSPECTION BY QUALITY APPROVED MANUFACTURER (1988)

(a) *Inspection system and inspection facilities.* (1) The inspection system maintained by the Contractor under the Inspection of Supplies—Fixed price clause of this contract shall be maintained throughout the contract period and shall comply with all requirements of Federal Standard 368, edition in effect on the date of the solicitation. A written description of the inspection system

shall be made available to the Government before contract award. The Contractor shall immediately notify the Contracting Officer and the designated GSA Quality Assurance Office of any changes made in the inspection system during the contract period. As used herein, the term "inspection system" means the Contractor's own facility or any other facility acceptable to the Government that will be used to perform inspections or tests of materials and components before incorporation into end articles and end articles before shipment. The manufacturing plant or other facilities must be located in the United States (including Puerto Rico and Virgin Islands), unless otherwise authorized by the Contracting Officer.

(2) In addition to the requirements in Federal Standard 368, records shall include the date inspection and testing were performed. All records shall be available for at least 12 months after contract performance is completed.

(3) Offerors are required to specify, in the space provided elsewhere in this solicitation, the name and address of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies.

(4) Within 10 calender days after receipt of the written notice of award, the Contractor shall provide the Contracting Officer with the name of the individual and an alternate that will be responsible for inspecting each shipment under this contract.

(b) *Inspection and receiving reports.* (1) For each shipment the Contractor shall prepare and distribute DD Form 250, Material Inspection and Receiving Report, promptly but not later than the close of business the workday following shipment. The Contractor will be provided a supply of the DD 250 with complete instructions for preparation and distribution. When shipments are released, one of the officials named by the Contractor under paragraph (a) above, shall sign a Quality Approved Manufacturer Certificate certifying that the supplies have been inspected and found to be in conformity with contract requirements. The certification shall be placed in block 16 of the DD 250 and shall read as follows:

"I certify that the shipment of supplies shown on this form were inspected and found to comply with all requirements of the contract.

Signature of Certifying Official"

(c) *Inspection by Government personnel.* (1) Although the Government will normally rely upon the Contractor's certification as to the quality of supplies shipped, it reserves the right under the Inspection of Supplies—Fixed Price clause to inspect and test all supplies called for by this contract before acceptance at all times and places including the point of manufacture. When the Government notifies the contractor of its intent to inspect supplies before shipment, the contractor shall notify or arrange for subcontractors to notify the designated GSA Quality Assurance Office at least 7 workdays before the date when supplies will be ready for inspection. Shipment shall not be made until after inspection by the Government is completed.

(2) Government inspection responsibility will be assigned to the GSA Quality Assurance Office which has jurisdiction over the State in which the Contractor's or subcontractor's plant or other designated point for inspection is located.

(3) During the contract period, a Government representative will periodically select samples of supplies produced under this contract for Government verification inspection and testing.

(d) *Quality deficiencies.* (1) Notwithstanding any other clause of this contract concerning the conclusiveness of acceptance by the Government, any supplies or production lots shipped under this contract found to be defective in material or workmanship, or otherwise not in conformity with the requirements of this contract within a period of * months after acceptance shall at the Government's option be replaced, repaired or otherwise corrected by the Contractor at no cost to the Government within 30 calendar days (or such longer period as the Government may authorize in writing) after receipt of notice to replace or correct. When the nature of the defect affects an entire batch or lot of supplies, and the Contracting Officer determines that correction can best be accomplished by retaining the nonconforming supplies and reducing the contract price by an amount equitable under the circumstances, then the equitable price adjustment shall apply to the entire batch or lot of supplies from which the noncomforming item was taken.

(2) If supplies in process, shipped, or awaiting shipment to fill Government orders are found not to comply with contract requirements, or if deficiencies in either plan quality of process controls are found, the Contractor may be issued a Quality Deficiency Notice (QDN). Upon receipt of a QDN, the Contractor shall take immediate corrective action and shall suspend shipment of the supplies covered by the QDN until such time as corrective action has been completed. The Contractor shall notify the GSA Quality Assurance Office, within 5 workdays, of corrective action taken or to be taken to permit onsite verification by a Government representative. Shipments of nonconforming supplies will be returned at the Contractor's expense and may cause this contract to be terminated. Delays due to the issuance of QDN do not constitute excusable delay under the Default clause. Failure to complete corrective action in a timely manner may result in termination of this contract.

(3) This contract may be terminated for default if subsequent Government inspection discloses that plant quality or process controls are not being maintained, subspecification supplies are being shipped, or for failure to comply with any other requirement of this clause.

(e) *Charges for inspection and testing.* The Contractor will be charged for any additional cost of inspection/testing or reinspecting/retesting supplies for the reasons stated in paragraph (e) of clause 52.246-2, Inspection of Supplies—Fixed Price. When inspection or testing is performed by or under the direction of GSA, charges will be at the rate of $** per man-hour or fraction thereof if the inspection is at a GSA supply distribution facility; $** per man-hour or fraction thereof, plus travel costs incurred, if the inspection is at any other location; and $** per man-hour or fraction thereof for laboratory testing, except that when a testing facility other than a GSA laboratory performs all or part of the required tests, the Contractor shall be assessed the actual cost incurred by the Government as a result of testing at such facility. When inspection is performed by or under the direction of any agency other than GSA, the charges indicated above may be used, or the agency may assess the actual cost of performing the inspection and testing.

(f) *Subcontracting requirements.* The Contractor shall insert in any subcontracts for inspection or testing the provisions set forth in paragraph (a) through (e) of this clause and the Inspection of Supplies—Fixed Price clause of this contract. The Contractor shall be responsible for compliance by any subcontractor with the provisions set forth in paragraphs (a) through (e) of this clause and the Inspection of Supplies—Fixed Price clause.

(End of Clause)

* The contracting officer shall normally insert 365 days as the period for replacing defective supplies. However, when the supplies being bought have a shelf life of less than 1 year, the shelf life period should be used, or in the instance where a longer period may reasonably be expected to be available, the longer period should be used.

** The rates to be inserted are established by the Commissioner of the Federal Supply Service or a designee.

552.246-72 [Removed]

9. Section 552.246-72 is removed.

10. Section 552.246-73 is renumbered 552.246-72 and revised to read as follows:

552.246-72 Source inspection.

As prescribed in 546.302-71, insert the following clause:

SOURCE INSPECTION (1988)

(a) *Inspection by Government personnel.* (1) Supplies to be furnished under this contract will be inspected at source by the Government prior to shipment from the manufacturing plant or other facility designated by the Contractor, unless the Contractor is otherwise notified in writing by the Contracting Officer or a designated representative. Notwithstanding the forgoing, the Government may perform any or all tests contained in the contract specifications at a Government facility without prior written notice by the Contracting Officer before release of the supplies for shipment.

(2) Government inspection responsibility will be assigned to the GSA Quality Assurance Office which has jurisdiction over the State in which the Contractor's or subcontractor's plant or other designated point for inspection is located. The contractor shall notify or arrange for subcontractors to notify the designated GSA Quality Assurance Office at least 7 workdays before the date when supplies will be ready for inspection. Shipment shall not be made until after inspection by the Government is completed.

(b) *Inspection and receiving reports.* For each shipment, the Contractor shall be responsible for preparation and distribution of inspection documents as follows: (1) DD Form 250, Material Inspection and Receiving Report, for deliveries to military agencies; or (2) GSA Form 308, Notice of Inspection for deliveries to CSA or other civilian agencies. When required, the Contractor will be furnished a supply of CSA Form 308 and/or DD Form 250, and complete instructions for their preparation and distribution.

(c) *Inspection facilities.* (1) The inspection system required to be maintained by the Contractor in accordance with clause 52.246–2, Inspection of Supplies—Fixed Price, may be the contractor's own facilities or any other facilities acceptable to the Government. These facilities shall be utilized to perform all inspections and tests fo materials and components prior to incorporation into end articles, and for the inspection of such end articles prior to shipment. The right is reserved by the Government to evaluate the acceptability and effectiveness of the Contractor's inspection system prior to award and periodically during the contract period.

(2) Offerors are required to specify, in the spaces provided elsewhere in the solicitation, the name and address of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies.

(3) The Contractor shall deliver the items specified in this contract from a plant or warehouse located within the United States (including Puerto Rico and the Virgin Islands) that is equipped to perform all inspections and tests required by this contract or specifications, to evidence conformance therein, or shall arrange with a testing laboratory or other facility in the United States, acceptable to the Government, to perform the required inspections and tests.

(d) *Availability of records.* In addition to any other requirement of this contract, the Contractor shall maintain at the point for source inspection, and make available to the Contracting Officer or an authorized representative, for the duration of the contract and 6 months (180 days) thereafter, records showing the following information for each order received under the contract: (1) order number; (2) date order received by the contractor; (3) quantity ordered; (4) date scheduled into production; (5) batch or lot number, if applicable; (6) date inspected and/or tested; (7) date available for shipment; and (8) date shipped or date service completed.

(e) *Additional cost of inspection and testing.* The Contractor will be charged for any additional cost of inspecting/testing or reinspection/retesting supplies for the reasons stated in paragraph (e) of clause 52.246–2, Inspection of Supplies—Fixed Price. When inspection or testing is performed by or under the direction of GSA, charges will be at the rate of $* per man-hour or fraction thereof if the inspection is at a GSA supply distribution facility; $* per man-hour or fraction thereof, plus travel costs incurred, if the inspection is at any other location; and $* per man-hour or fraction thereof for laboratory testing, except that when a testing facility other than a CSA laboratory performs all or part of the required tests, the Contractor shall be assessed the actual cost incurred by the Government as a result of testing at such facility. When inspection is performed by or under the direction of any agency other than CSA, the charges indicated above may be used, or the agency may assess the actual cost of performing the inspection and testing.

(End of Clause)

*The rates to be inserted are established by the Commissioner of the Federal Supply Service or a designee.

552.246-74 [Removed]

11. Section 552.246–74 is removed.

552.246-77 [Removed]

12. Section 552.246–77 is removed.

Dated: November 11, 1988.

Ida M. Ustad,

Director, Office of GSA Acquisition, Policy and Regulations.

[FR Doc. 88–26899 Filed 11–22–88; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Docket No. RSCG-3; Notice No. 1]

49 CFR Ch. II

RIN 2130–AA27

Grade Crossing Signal System Safety

AGENCY: Federal Railroad Administration (FRA), (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: The purpose of this proceeding is twofold: (a) to determine whether Federal regulatory intervention is required to ensure adequate maintenance, inspection and testing of signal systems and devices at railroad highway grade crossings, and (b) to determine whether such regulations would be cost beneficial. Specifically, the proceeding seeks the following data: (1) information on current practices regarding maintenance, inspection and testing of these systems; (2) data on the frequency of grade crossing accidents in general and, more specifically, accidents attributable in whole or in part to the malfunctioning of devices; (3) evidence, if any, relating accidents attributable in whole or in part to the malfunctioning of devices to inadequacies in current maintenance, inspection and testing practices (or, conversely, evidence suggesting that Federal standards on maintenance, inspection and testing could have avoided such accidents); (4) data relating the costs and benefits of Federal regulatory intervention in these areas; and (5) information on the effectiveness of current and anticipated systems designed to the ensure detection of signal malfunctions.

DATES: (1) Written comments must be received by January 4, 1989. Comments received after that date will be considered to the extent possible without incurring additional delay or expense.

(2) Public Hearing: FRA will hold a public hearing in this proceeding on December 14, 1988. The hearing will commence at 10:00 a.m. Any person desiring to make an oral statement at the hearing should submit their prepared statements to the Docket Clerk at least five days before the hearing date.

ADDRESSES: Written comments should be addressed to the Docket Clerk, Office of Chief Counsel, RCC–30, Federal Railroad Administration, Department of Transportation, 400 Seventh Street SW., Room 8201, Washington, DC 20590. Written comments should identify this proceeding by its docket and notice number and five copies should be submitted. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped postcard. The Docket Clerk is located in Room 8201 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Public Dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except holidays.

The hearing will be held in Room 4234 of the Nassif Building located at 400 Seventh Street SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Deputy Associate Administrator for Safety, Federal Railroad Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 (Telephone: (202) 366–0897), or Mark Tessler, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 (Telephone: (202) 366–0628).

SUPPLEMENTARY INFORMATION:

Background

From the earliest days of railroading, the substantial difference between the stopping capacity of a steel wheel on a steel rail and the stopping capacity of a motor vehicle on an asphalt highway dictated that railroads would have the right-of-way at rail-highway crossings. The railroad's inability to stop over short-to-medium range distances precluded any other alternative. Unfortunately, convincing motorists to respect that right-of-way has proven a difficult challenge, as evidenced by the fact that 50% of all grade crossing

fatalities occur at crossings with operating, active warning devices.

Notwithstanding the common recognition that these are primarily "highway" accidents, FRA has worked closely with the railroad industry, state governments, labor organizations, Federal Highway Administration and equipment suppliers to reduce the frequency and severity of rail-highway grade crossing accidents. Those efforts have produced significant results particularly in the period between 1978 and 1987. The grade crossing accident rate declined consistently during that period, with cumulative declines for each accident category as follows: accident numbers declined by 52 percent; the accident rate per million train miles declined by 38 percent; injuries declined by 45 percent; and fatalities declined by 41 percent.

Nevertheless, even in 1987—the best year on record—6,391 accidents occurred at rail-highway intersections across the United States, and 624 people died in those accidents.

FRA Initiatives

FRA was instrumental in creating the inventory of rail-highway crossings that was conducted between 1973 and 1975. The Agency currently has custodial responsibility for this data base. It has utilized the inventory—and funded research efforts—to assist states in the allocation of resources among potential sites for installation of train activated devices. Access to the data allows states to reduce the several thousand possible candidates to a workable number that can be subjected to a rigorous analysis before final decisions are made. In addition, FRA and FHWA have fostered development of low cost improvements, such as better crossing surfaces, clearance of visual obstructions, elimination of little used crossings and the "corridor system approach" to crossing improvements. Demonstration projects to establish the effectiveness of these alternatives have been conducted. FRA has also supported "Operation Lifesaver" with both financial assistance and agency personnel. FRA staff annually make over 1,000 contacts and directly reach some 100,000 people with the Operation Lifesaver message.

FRA has also explored the possibility of equipping freight cars with reflectorized markings and installing alerting lights on locomotives as ways of improving the conspicuity of trains. In neither instance was FRA able to conclude that safety would be enhanced by requiring such devices.

Issue Definition

FRA estimates that there are approximately 347,000 rail-highway intersections in the United States. Such crossings include private and public roads which intersect at grade and those that are separated by having one mode of travel use a bridge or tunnel to pass over the other. Approximately 186,000 of these intersections involve public roads which intersect railroads at grade. Statistically, the date concerning those intersections shows the following:

Type of roadway (Federal-aid designation)	Number of crossings
Federal-Aid, Interstate and Primary	9,326
Federal-Aid, Urban	16,686
Federal-Aid, Secondary	19,306
Non-Federal-Aid	140,303
Total	185,621

Vehicular traffic level (daily average)	Type of warning device provided			Crossings in that category (percent)
	Signals (percent)	Signs (percent)	None (percent)	
Over 10,000	83	14	3	4
5,001 to 10,000	76	19	4	6
1,001 to 5,000	62	33	5	20
501 to 1,000	45	50	5	11
Under 500	15	79	6	59

Virtually all public crossings are equipped with a passive device that alerts motorists to the impending intersection; nearly 58,000 (roughly 31% of the public crossings) have devices that are activated by the approach of a train. These active warning devices include flashing light, bells and gates, and any particular intersection may have any one or a combination of such devices. In addition, there are a few locations when train activated circuitry will alter the traditional highway taffic lights to control vehicular or pedestrian traffic on an adjacent street.

FRA has assessed the need for standards governing the inspection, testing and maintenance of the devices at these 58,000 crossings on several occasions. In the late 1970's, the Federal Railroad Administration initiated a rulemaking proceeding to address the issue. Following an extensive open hearing and public comment process, FRA terminated the rulemaking proceeding in October, 1978. [See October 4, 1978, issue of the Federal Register, 43 FR 45903, Docket No. RSGC-1; Notice 2] A material factor in that decision was an FRA analysis of more than 21,000 accident files from the period 1975 to 1976. That analysis revealed that allegations of malfunction were present in only 9/10 of 1 percent of the cases, and the testimony submitted failed to make a persuasive case that Federal standards could have materially altered those numbers.

At the request of the Brotherhood of Railway Signalmen, FRA conducted a second proceeding and a similar data analysis in 1984 (49 FR 24968, Docket No. RSS1–84–3). It reached the same basic conclusion. In the second study, some 19,000 accident records were reviewed in detail and only 15/100 of one percent involved allegations of warning device failure.

In the wake of these proceedings, FRA focused its resources on what it determined at the time were more productive areas, including support for Operation Lifesaver, updating of the rail-highway crossing inventory and accident prediction formulas and promotion of a corridor improvement program for crossings without automated warning devices. FRA also held a Special Safety Inquiry to explore how public and private agencies could better target their programs, and published a report containing recommendations on all phases of the grade crossing safety issue and it is available in the public docket.

Recent Developments

Two developments worth noting have occurred since the completion of these proceedings. The first involves a demonstration project in the State of Texas. Under that program, a toll-free number was provided to permit any person to report problems with rail-highway grade crossings. FRA is

currently studying the data developed in that program, both as to the rate of contacts and the actual roadside conditions that prompted the calls. The second development involves the growing diversity of responsibility for these devices. In the last several years, the large railroads have transferred portions of their systems to independent carriers, passing responsibility for the maintenance of the crossing devices to the new carrier-owners. FRA is cognizant of the fact that the new operators often lack sufficient traffic density to warrant the continuation of active warning devices. At the same time, however, we have little data on the maintenance practices adopted by the new owners, and believe that testimony on that issue would be helpful in evaluating the advisability of FRA regulatory intervention.

The Current Proceeding

In 1987, the Department of Transportation commenced a Congressionally mandated study assessing national rail-highway crossing improvement and maintenance needs, and how these crossing needs can be addressed in a cost-effective manner. The final report, to be issued by the Federal Highway Administration, is due in April 1989.

The focus of this proceeding is somewhat different. The issue here is twofold: whether the adoption of Federal standards for crossing maintenance, inspection and testing would materially reduce the occurrences of accidents related to signal device malfunction, and whether the benefits of such a rule would outweigh its cost.

Specifically, FRA seeks: (a) Information on current practices regarding maintenance, inspection and testing of these systems; (b) data on the frequency of grade crossing accidents in general and, more specifically, accidents attributable in whole or in part to the malfunctioning of devices; (c) evidence, if any, relating accidents attributable in whole or in part to the malfunctioning of devices to inadequacies in current maintenance, inspection and testing practices (or, conversely, evidence suggesting that Federal standards on maintenance, inspection and testing could have avoided such accidents); (d) relating the costs and benefits of Federal regulatory intervention in these areas; and (e) information on the effectiveness of current and anticipated systems designed to ensure detection of signal malfunctions.

FRA intends this proceeding to go beyond statistical evidence and anecdotal experience to solicit specific comments on these issues and the following questions:

1. Is there a safety problem posed by the current level of maintenance, inspection and testing of grade crossing warning devices? If responding in the affirmative, what data supports this assertion?

2. Quantify, to the extent possible, the number of accidents, injuries and fatalities attributable in whole or in part to the malfunctioning of warning devices over the last calendar year and over the previous five calendar years.

3. Is there evidence correlating these accidents to inadequacies in current maintenance, inspection and testing practices (or, conversely, evidence suggesting that Federal standards on maintenance, inspection and testing could have avoided such accidents)?

4. If it proves impossible to resolve these issues at this point in time, should FRA establish additional reporting requirements to develop a more extensive data base concerning the reliability of such devices? If responding in the affirmative, would the existing FRA rules for reporting signal system malfunctions be an appropriate model for such a system?

5. Is there any substance to assertions that changes in ownership of rail lines will alter the current inspection, testing and maintenance practices employed by prior owners? If so, are these changes justified by diminished traffic densities on the lines in question?

6. FRA has been advised that individual railroads have clearly established practices for the periodic inspection, testing and maintenance of these devices. What are those practices? How uniform is their application? Has any effort ever been made to compile and compare these individual programs?

7. Are devices currently available (or anticipated within the foreseeable future) which can automatically detect signal malfunctions? Please describe these devices, their costs and their capabilities.

8. If a safety problem does exist, can it effectively be addressed by Federal regulations? Why or why not? If Federal regulations are to be adopted, what specific areas should they address?

9. Should Federal regulations be promulgated, what type of recordkeeping would be required? Should such records be submitted to the Federal government in report form, or subject only to review during routine Federal inspections?

10. If Federal regulations were proposed, would additional maintenance forces be required? If the response is in the affirmative, is it possible to provide an estimate of the increase in man hours?

11. What additional inspection and maintenance costs would be required by such regulations? What data is being relied on to calculate this response; specifically, what assumptions and estimates are being used concerning work hours, travel miles (& times) and required materials?

12. What economic impact, if any, will the regulations have on the carriers beyond the direct costs identified above?

13. Will additional capital investments be necessary?

14. To what extent would such regulations reduce the number of accidents and casualties? Provide both the theoretical and the statistical justification for your response.

15. What alternative courses of action could be taken to address this issue? Is there a larger state and local role in this issue that has not been fully explored?

16. Please provide any data you may have comparing the costs and benefits of the proposed regulations.

This list of issues is not intended to be universal. The purpose of this proceeding has been previously described, and we solicit comments on all issues relevant to that stated purpose.

FRA will evaluate any proposed action and its potential impacts in accordance with existing regulatory policies to determine whether it would be a "major rule" under DOT policies, or have a significant economic impact on a substantial number of small entities under the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

FRA will further evaluate any proposed rule pursuant to DOT regulations implementing the Environmental Policy Act.

Any proposed action will be further evaluated to determine information collection burdens pursuant to the Paperwork Reduction Act. Any proposed action will be evaluated pursuant to Executive Order 12612 to determine whether it would have substantial effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.

Commenters are invited to state their views on the above.

Issued in Washington, DC, on November 17, 1988.

John Riley,

Administrator, Federal Railroad Administration.

[FR Doc. 88-27064 Filed 11-22-88; 8:45 am]

BILLING CODE 4910-06-M

49 CFR Part 229

[Docket No. LI-7; Advance Notice]

Event Recorders

AGENCY: Federal Railroad Administration (FRA), (DOT).

ACTION: Advance notice of proposed rulemaking (ANPRM).

SUMMARY: FRA is conducting this proceeding to determine whether Federal regulatory intervention is necessary to ensure the presence of event recorders on train movements within FRA's jurisdiction, and whether such regulations would be cost beneficial. The proceeding will also explore whether there is a necessity for standards governing event recording devices.

Specifically, the proceeding seeks information concerning the current extent of event recorder installation, the capabilities of event recorders in current use, anticipated technological developments, and potential uses of event recorder data.

DATES: (1) *Written Comments:* Written comments must be received by March 13, 1989.

(2) *Public Hearing:* FRA believes that a full development of the issues surrounding event recorders requires that a public hearing be held. The hearing will be held on January 10, 1989, at 10 a.m. Any person desiring to make an oral statement at the hearing should notify the Docket Clerk before January 3, 1989. Advance notice to the Docket Clerk is especially important for manufacturers or suppliers who may wish to demonstrate their event recorders at the hearing. FRA will attempt to accommodate all such requests, but oral presentations and demonstrations may have a time limit imposed on them in order to allow all persons who so desire to be heard. FRA regrets that it will not be able to make provisions for special electrical power needs or for visual presentation equipment.

ADDRESSES: (1) *Written Comments:* Address comments to the Docket Clerk, Office of Chief Counsel, RCC-30, Federal Railroad Administration, Department of Transportation, 400 Seventh Street SW., Room 8201, Washington, DC 20590. Comments should identify the docket and notice number and five copies should be submitted. Persons wishing to receive confirmation or receipt of their comments should include a self-addressed stamped postcard. The Dockets Section is located in Room 8201 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, except holidays.

(2) *Public Hearing:* A public hearing will be held at Room 2230, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Persons making statements at the hearing should provide five copies of their remarks at the hearing.

FOR FURTHER INFORMATION CONTACT: Philip Olekszyk, Deputy Associate Administrator for Safety, RRS-2, Room 8320A, Federal Railroad Administration, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590 (telephone 202-366-0897), or Thomas A. Phemister, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street SW., Washington, DC 20590 (telephone 202-366-0635).

SUPPLEMENTARY INFORMATION: FRA is conducting this proceeding to determine whether Federal Regulatory intervention is necessary to ensure the presence of event recorders on train movements within FRA's jurisdiction, and whether such regulations would be cost beneficial. The proceeding will also explore whether there is a necessity for standards governing event recording devices.

Preliminary review by FRA shows that every major railroad now uses event recorders of some type; because technology has been advancing rapidly in this area, these devices vary considerably in both the number and type of "events" they will record. In the railroad environment, it may not be necessary to equip every locomotive to ensure that every train movement is recorder-monitored, since most movements employ multiple locomotives in addition to the "central" or "lead" locomotive. Overall, more than 7,500 of the approximately 17,000 road locomotives owned by the major United States railroads are so equipped. In at least one individual fleet, more than half of the locomotives have recorders.

The majority of the recorders now in use have the capacity to record the following eight events over a 48-hour period:

1. Time,
2. Speed,
3. Traction motor amperage,
4. Distance traveled,
5. Throttle position,
6. Dynamic brakes,
7. Locomotive (independent) brake, and
8. Train brake pipe pressure reduction.

More advanced recorders are now available and some of these will record 20 or more events; devices using magnetic tape as the recording medium are now meeting competition from devices which record into a computer readable memory, facilitating direct computer analysis of the events leading up to an accident.

Event recorders have long been a useful tool to FRA investigators in determining accident causation, but we intend in this proceeding to go beyond our anecdotal experiences to solicit comments on the following issues:

1. What percentage of the current locomotive fleet is equipped with some form of event recorder? How does that percentage vary among the following categories:

—Class I carriers
—Regional railroads
—Short line carriers
—Commuter carriers
—Locomotives moving Amtrak equipment (whether owned by Amtrak or not)

2. What percentage of the fleet would have to be equipped to ensure that all train movements subject to FRA jurisdiction are recorded? Does that percentage vary among the classes of carriers described in question 1?

3. If FRA proposes regulations, should they distinguish among the five classes of carriers described in question 1? Why or why not?

4. Describe the generic types of devices in use today and the estimated percentage of the fleet installed with each type.

5. Describe the "state-of-the-art," i.e., the capability of devices available on the market today.

6. Should FRA mandate standards for the construction and maintenance of event recording devices? What would the advantages and disadvantages of such standards be?

7. Are there uses for event recorder data beyond its traditional function in accident investigations? If so, what are those uses? Were "management benefits" (for example, the ability to measure locomotive and/or crew performance over varying terrain or with trailing tonnage of varying amounts) part of the decision to install event recorders on a carrier's fleet? How

were the costs and benefits of those uses evaluated before the installation decision was made? Has experience changed those original projections? How?

8. Are all classes and types of locomotives compatible with event recorders? If not, why not?

9. Are there distinctions between the types of data that should be recorded in passenger and freight operations?

10. What events should be recorded:

—For accident investigation purposes?

—For purposes other than accident investigations?

11. What technological advances can be reasonably anticipated in event recorders over the next five years?

12. Are all "hot box" detector readings currently being recorded? How? Why/why not? Where are the recordings made? Where are the recordings maintained? How long are they maintained? How are train crews informed of the reading of a hot box detector? Are they informed of both negative and positive readings? Are recordings made and maintained of the notification to train crews of positive hot box indications?

13. Is there an advantage to requiring compatibility among event recorders? Should, for instance, all required devices accept a standard cable connector? Is there a standard pick up transducer signal that all devices could or should accept? Is the issue of capability or standardization a valid subject for Federal regulatory involvement?

14. What design or installation factors could make current devices more resistant to tampering? What actions, if any, are manufacturers taking to incorporate such changes in future designs?

15. Where and how should event recorders be mounted to both increase their chance of surviving an accident and yet ensure that they remain accessible for maintenance and inspection?

16. How are current devices inspected and maintained? How often are those inspections made? How often should inspections be performed? What calibration procedures are performed and at what frequency?

17. What indications do (can) these devices give to inform train crews that they are on and functioning? Is there a way that these devices can alert a crew if they cease recording events during a movement? Are such features incorporated in any currently available devices?

18. What standards for accuracy, if any, currently prevail among recorder manufacturers? What calibration procedures are necessary to maintain that accuracy? If FRA proposes regulations, should they include standards for accuracy? If so, how should those standards be developed?

19. What is the installed cost of currently available devices, broken down for materials and labor?

20. What maintenance costs do these devices require on an annual basis? Are these costs related to the number and type of events that a device may be required to record?

21. Will anticipated technological developments materially alter the response to the two preceding questions?

22. If FRA does propose regulations, should they be limited to newly purchased locomotives? Comment generally on the costs and benefits of a rule that would go beyond requiring event recorders in newly manufactured locomotives to include a mandatory retrofit of the current fleet.

This list of issues is not intended to be universal; the purpose of this proceeding has been previously described and we solicit comments on all issues relevant to that stated purpose.

Regulatory Impact

This rule has been evaluated in accordance with existing policies and procedures, and is considered to be non-major under Executive Order 12291 but significant under DOT policies and procedures (44 FR 11034, February 26, 1979).

This rule's economic impact cannot be accurately quantified with the information now known to FRA. An analysis of economic impact, including the impact on small entities pursuant to the Regulatory Fexibility Act (5 U.S.C. 601 *et seq.*), will be made after evaluating the data submitted in response to this advance notice of proposed rulemaking and the findings of that analysis will be published as part of any notice of proposed rulemaking in this matter.

A rule issued in this proceeding may impose information collection requirements, the extent and impact of which can only be evaluated with the data FRA expects to develop as a result of this advance notice of proposed rulemaking. If requirements meeting Federal thresholds are imposed, they will be submitted to the Office of Management and Budget for approval under the Paperwork Reduction Act of 1980. No record keeping requirements will be mandatory until such approval has been obtained.

This rule should not have substantial effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Thus, in accordance with Executive Order 12612, preparation of a Federalism Assessment is not warranted.

Issued in Washington, DC, on November 17, 1988.

John H. Riley,

Administrator, Federal Railroad Administration.

[FR Doc. 88-27119 Filed 11-22-88; 8:45 am]

BILLING CODE 4010-06-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1135

[Ex Parte No. 290 (Sub-No. 4)]

Railroad Cost Recovery Procedures-Productivity Adjustment

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to adjust the quarterly rail cost adjustment factor (RACF) for changes in productivity. This proposal reflects a decision to change the RCAF from an *input* index (describing changes in costs that railroads must pay for their materials and labor) to an *output* index (one indicating changes in the cost of producing railroad services). The proposed adjustment is based on a traditional index number approach and would use data from the ICC Waybill Study and annual reports filed by Class I line-haul railroads. The proposed adjustment would develop a moving trend over a full business cycle which would be applied on a prospective basis. The proposed methodology was developed by a contractor for the Commission. Copies of the contractor's final report are available. Additionally the Commission is proposing that the RCAF not be discounted for a profit element. Finally the Commission will entertain comments on the sharing of productivity gains between railroads and shippers.

DATES: Comments must be filed December 16, 1988. Replies are due January 17, 1989.

FOR FURTHER INFORMATION CONTACT: William T. Bono, (202) 275-7354, Robert C. Hasek, (202) 275-0938, [TDD for hearing impaired (202) 275-1721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To obtain a copy of the full decision write to, call or

pick up in person from: Office of The Secretary, Room 2215, Interstate Commerce Commission, Washington, DC 20423. Telephone (202) 275–7428. Copies of the contractor's final report are available from Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, (202) 284–4357/4359 for a fee of $40. Assistance for the hearing impaired is available through TDD services (202) 275–1721 or by pickup from Dynamic Concepts, Inc., Room 2229 at Commission headquarters.

This action will not affect either the quality of the human environment or energy conservation. It will not have a significant impact on a substantial number of small entities.

List of Subjects in 49 CFR Part 1135

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

Title 49 of the Code of Federal Regulations, Part 1135 is proposed to be revised as follows:

PART 1135—RAILROAD COST RECOVERY PROCEDURES

1. The authority citation for Part 1135 would continue to read as follows:

Authority: 49 U.S.C. 10321 and 10707a; 5 U.S.C. 553.

§ 1135.1 [Amended]

2. Section 1135.1(b) is proposed to be amended by adding the following language at the conclusion of § 1135.1(b):

§ 1135.1 Quarterly adjustment of rates.

* * * * *

(b) * * * Additionally, each quarterly index will be adjusted for productivity changes. The adjustment will be made by applying a productivity trend implemented on a gradual basis so that 25 percent of the annual change is applied during the first quarter, 50 percent during the second quarter, 75 percent during the third quarter and 100 percent during the fourth quarter. Productivity adjustments shall compound in the same manner as rate changes.

* * * * *

Decided: November 14, 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley and Phillips. Chairman Gradison, Vice Chairman Andre and Commissioner Lamboley commented with separate expressions. Commissioner Phillips concurred with a separate expression.

Noreta R. McGee,

Secretary.

[FR Doc. 88–27072 Filed 11–22–88; 8:45 am]

BILLING CODE 7035–01–M

49 CFR Part 1152

[Ex Parte No. 274 (Sub-No. 11B)]

Abandonment Regulations; Costing; Revised Treatment of Return on Investment; Equipment

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In early 1987, the Commission amended its regulations governing railroad abandonments, service discontinuances, and financial assistance offers to, among other things, treat return on investment in railroad equipment (ROI–Equipment) as an economic cost rather than an avoidance cost. On appeal, the United States Circuit Court of Appeals for the District of Columbia Circuit remanded the proceeding and directed the Commission to reconsider its decision. In response, the Commission proposes to amend its rules as indicated below to place RIO-Equipment back in the avoidable cost category. Comments are invited.

DATES: Comments are due by December 23, 1988.

ADDRESS: Send comments (original and 10 copies), referring to Ex Parte No. 274 (Sub-No. 11B) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245 (TDD for hearing impaired: (202) 275–1721)

SUPPLEMENTARY INFORMATION: The earlier amendments to the regulations [Ex Parte No. 274 (Sub-No. 11)] were made in *Abandonment Regulations—Costing*, 3 I.C.C.2d 340 (1987), and published in 52 FR 2705, January 26, 1987. The appeals court remanded the ROI-Equipment portion of those changes in *Association of American Railroads* v. *ICC*, 846 F.2d 1465 (D.C. Cir. 1988).

The court expressed concern with the Commission's reasoning that equipment from an abandoned rail line will not necessarily be used elsewhere. It found this to be at odds with a prior court decision that concluded Congress had determined, as a matter of law, that costs in subsidy determinations should be based on an assumption that abandonment would spare railroads the costs of new equipment. The court held that the Commission, in subsidy calculations, must either drop the change it made or reconcile it with the statutory assumption. It also noted that, for consistency, the Commission might want to consider revising treatment of ROI-Equipment in the abandonment context.

The Commission now proposes to revise both the subsidy and abandonment treatment of ROI-Equipment. The Commission is now considering certain other abandonment regulation changes that were proposed in Ex Parte No. 274 (Sub-No. 11A), *Abandonment Regulations—Costing (Implementation of the Railroad Accounting Principles Board Findings)*, 53 FR 17234, May 13, 1988. The final action in this proceeding will rephrase the amendments proposed here, as necessary to adjust for interim changes in the rules being amended.

Additional information is contained in a concurrent decision instituting this proposed rulemaking. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, Room 2215, Interstate Commerce Commissions, Washington, DC 20423. Telephone (202) 275–7428. (Assistance for the hearing impaired is available through TDD services (202) 275–1721.)

This action will not significantly affect either the quality of the human environment or energy conservation.

The Commission certifies that the proposed revision will not have a significant economic impact on a substantial number of small entities. The purpose of the proposed changes is to permit a more accurate determination of the costs of rail operations in connection with rail abandonment and subsidy proceedings.

List of Subjects in 49 CFR Part 152

Abandonments and discontinuances, Administrative practice and procedures, and Railroads.

This proposed rulemaking is issued under the authority of 5 U.S.C. 553, and 49 U.S.C. 10321, 10362, 10903, and 10904.

Dated: November 10 1988.

By the Commission, Chairman Gradison, Vice Chairman Andre, Commissioners Simmons, Lamboley, and Phillips. Commissioner Simmons dissented with a separate expression.

Norea R. McGee,

Secretary.

Part 1152, of Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903.

11. In Part 1152 the authority citation would continue to read:

Authority: 5 U.S.C. 553, 559, and 704; 11 U.S.C. 1170; 16 U.S.C. 1247(d); and 49 U.S.C.

10321, 10362, 10505, 10903, 11161, 11162, and 11163, *et seq.*

Subpart D—Standards for Determining Costs, Revenues, and Return on Value.

* * * * *

2. Paragraph (g) introductory text of § 1152.32 is proposed to be amended by adding the phrase "plus the return on investment in freight cars." at the end of the sentence beginning with the phrase "The costs assigned to a line under this subsection".

3. Paragraph (g)(3)(ii) is proposed to be added to § 1152.32 to read as follows:

§ 1152.32 Calculation of Avoidable Costs.

(g) * * *

(3) * * *

(ii) Add 100 percent of the return on investment. The return on investment shall be determined by multiplying the current value of each type of car, developed in paragraph (g)(3)(i) of this section, by one minus the ratio of accumulated depreciation to the total original cost investment. The total return on investment is determined by multiplying the net current value by the rate of return calculated in § 1152.34(d).

* * * * *

4. Paragraphs (g)(3)(iii) of § 1152.32 is proposed to be amended by revising the phrase "To the amounts for repairs and depreciation, and add * * *" to read "To the amounts for repairs, depreciation, and return on investment add * * *".

* * * * *

5. Paragraph (h) proposed to be added to § 1152.32 to read as follows:

(h) *Return on investment—locomotive (line).* The return on investment shall be calculated for each type of classification of locomotive that is actually used to provide service to the line segment. The return for the locomotive(s) used shall be calculated in accordance with the following procedure:

(1) The current replacement cost for each type of locomotive used to serve the line segment shall be based on the most recent purchase of that particular type and size locomotive by the carrier indexed to the midpoint of the subsidy year or an amount quoted by the manufacturer. The amount must be substantiated. This unit cost shall be multiplied by 1 minus the ratio of total accumulated depreciation to original total cost of that type of equipment owned by applicant-carrier, as shown by company records.

(2) The current cost of capital used in the calculation of return on investment for locomotives shall be the current before-tax cost of capital, adjusted for inflation, weighted to the capital structure, and adjusted for the effects of the combined statutory Federal and State income tax rates. The current cost of capital expressed as a percent, shall be calculated as provided in §1152.34(d).

(3) The annual return on investment for each category or type of locomotive shall be calculated by multiplying the replacement cost determined in paragraph (h)(1) of this section by the rate of return determined in paragraph (h)(2) of this section.

(4) The return on investment for each type of locomotive shall be assigned to the line segment on a ratio of the locomotive unit hours on the segment to average locomotive unit hours per unit for each type of locomotive in the system. This ratio will be developed as follows:

(i) The carrier shall keep and maintain records of the number of hours that each type of locomotive incurred in serving the segment during the subsidy period.

(ii) The railroad shall develop the system average locomotive unit hours per unit for each of the following types of locomotives: yard diesel; yard-other; road diesel; and road-other.

(iii) The ratio applied to the return on investment is calculated by dividing the hours that each type or class of locomotive is used to serve the segment, as developed in paragraph (h)(4)(i) of this section, by the system average locomotive unit hours per unit for the applicable type developed in paragraph (h)(4)(ii) of this section.

(5) The cost assigned to the segment for each type of locomotive shall be calculated by multiplying the annual return on investment developed in paragraph (h)(3) of this section by the ratio(s) developed in paragraph (h)(4) of this section.

* * * * *

6. The introductory text of § 1152.34 is proposed to be revised to read as follows:

§1152.34 Return on Investment.

Return on investment for road property shall be computed according to the procedures set forth in this section.

* * * * *

7. Paragraph (a) of § 1152.34 is proposed to be removed and reserved for future use.

8. Paragraph (b) of § 1152.34 is proposed to be removed and reserved for future use.

* * * * *

§ 1152.36. Submission of Revenue and Cost Data. [Amended]

9. The chart appearing in § 1152.36 is proposed to be amended as follows:

(a) Lines 5(h) and 5(i) are proposed to be revised to read as follows:

5. * * *

(h) Return on investment—locomotives.

(i) Revenue taxes.

(b) Line 5(j) is proposed to be added to read as follows:

5. * * *

(j) Property taxes.

(c) Lines 12 through 16 are proposed to be revised to read as follows:

12. Valuation of property (lines 12a through 12c).

a. Working capital.

b. Income tax benefits.

c. Net liquidation value.

13. Rate of return.

14. Total return on value (line 12 times line 13).

15. Avoidable loss from operations (line 4 minus line 7).

16. Estimated subsidy (line 4 minus lines 7, 11, and 14).

(d) Lines 17, 18, and 19 are proposed to be removed.

[FR Doc. 27073 Filed 11-22-88; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 53, No. 226
Wednesday, November 23, 1988

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

Feed Grain Donations for the Devils Lake Sioux Tribe in North Dakota

Pursuant to the authority set forth in section 407 of the Agricultural Act of 1949, as amended (7 U.S.C. 1427) and Executive Order 11336, I have determined that:

1. The chronic economic distress of the needy members of the Devils Lake Sioux Tribe in North Dakota has been materially increased and become acute because of severe and prolonged drought, thereby creating a serious shortage of feed and causing increased economic distress. This reservation is designated for Indian use and is utilized by members of the Devils Lake Sioux Tribe for grazing purposes.

2. The use of feed grain or products thereof made available by the Commodity Credit Corporation (CCC) for livestock feed for such needy members of the tribe will not displace or interfere with normal marketing of agricultural commodities.

3. Based on the above determinations, I hereby declare the reservation and grazing lands of the tribe to be acute distress areas and authorize the donation of feed grain owned by the CCC to livestock owners who are determined by the Bureau of Indian Affairs, United States Department of the Interior, to be needy members of the tribe utilizing such lands. These donations by the CCC may commence upon December 15, 1988, and shall be made available through May 15, 1989, or such other data as may be stated in a notice issued by the USDA.

Signed at Washington, DC on November 17, 1988.

Milton Hertz,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 88-27139 Filed 11-22-88; 8:45 am]

BILLING CODE 3410-05-M

Animal and Plant Health Inspection Service

[Docket No. 88-163]

Availability of Environmental Assessment and Finding of No Significant Impact Relative to Issuance of a Permit to Field Test Genetically Engineered Disease Resistant Tobacco Plants

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document provides notice that an environmental assessment and finding of no significant impact have been prepared by the Animal and Plant Health Inspection Service relative to the issuance of a permit to E. I. Du Pont de Nemours & Co., Inc., to allow the field testing in the State of Delaware of genetically engineered tobacco plants, modified to contain an extra gene for endochitinase. The assessment provides a basis for the conclusion that the field testing of these genetically engineered tobacco plants does not present a risk of introduction or dissemination of a plant pest and also will not have any significant impact on the quality of the human environment. Based upon this finding of no significant impact, the Animal and Plant Health Inspection Service has determined that an environmental impact statement need not be prepared.

ADDRESS: Copies of the environmental assessment and finding of no significant impact are available for public inspection at Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 406, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782.

FOR FURTHER INFORMATION CONTACT: Dr. Sally L. McCammon, Staff Biotechnologist, biotechnology Permit Unit, Biotechnology, Biologics, and Environmental Protection, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room G-186, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-7612. For copies of the environmental assessment call Ms. Mary Petrie at Area Code (301) 436-7612, or write her at this same address. The environmental assessment should be requested under accession number 88-091-01.

SUPPLEMENTARY INFORMATION:

Background

On June 16, 1987, the Animal and Plant Health Inspection Service (APHIS) published a final rule in the **Federal Register** (52 FR 22892-22915) which established a new Part 340 in Title 7 of the Code of Federal Regulations (7 CFR 340) entitled, "Introduction of Organisms and Products Altered or Produced Through Genetic Engineering Which Are Plant Pests or Which There Is Reason to Believe Are Plant Pests" (hereinafter "the rule"). The rule regulates the introduction (importation, interstate movement, and release into the environment) of genetically engineered organisms and products which are plant pests or which there is reason to believe are plant pests (regulated articles). The rule sets forth procedures for obtaining a permit for the release into the environment of a regulated article and for obtaining limited permits for the importation or interstate movement of a regulated article. A permit must be obtained before a regulated article can be introduced in the United States.

APHIS has stated that it would prepare environmental assessments and, where necessary, environmental impact statements prior to issuing a permit for the release into the environment of a regulated article (see 52 FR 22906).

E.I. Du Pont de Nemours & Co., Inc., of Wilmington, Delaware, has submitted an application for a permit for release into the environment of genetically engineered tobacco plants modified to contain an extra gene for endochitinase. In the course of reviewing the permit application, APHIS assessed the impact to the environment of releasing the tobacco plants under the conditions described in the E.I. Du Pont de Nemours & Co., Inc., application. APHIS concluded that the field testing will not present a risk of plant pest introduction or dissemination and will also not have any significant impact on the quality of the human environment.

The environmental assessment and finding of no significant impact which is based on data submitted by E. I. Du Pont de Nemours & Co., Inc., as well as a review of other relevant literature, provides the public with documentation of APHIS' review and analysis of the environmental impacts associated with conducting the field testing.

The facts supporting APHIS' finding of no significant impact are summarized below and are contained in the environmental assessment.

1. A gene for endochitinase has been inserted into the tobacco chromosome. The increased production of endochitinase may make these plants less susceptible to the damaging effects of certain fungal pathogens. In nature, the genetic material contained in a plant chromosome can only be transferred to another sexually compatible plant by cross-pollination. In this field test, the introduced gene cannot spread to any other sexually compatible plant by cross-pollination since the plants will be harvested before flowering and any flower buds that do form will be removed before they open.

2. Neither the endochitinase gene nor its enzyme product confers on tobacco any plant pest characteristics. The increased production of chitinase in these tobacco plants does not increase characteristics such as weediness. Tobacco already contains a naturally occurring gene for endochitinase.

3. The bean variety from which the endochitinase gene was obtained is not a plant pest.

4. The endochitinase gene may provide the genetically engineered tobacco plants with a selective advantage over nongenetically engineered tobacco plants in its ability to become established in the environment due to a possible increase resistance to fungal pathogens. Because the genetically engineered tobacco will not be allowed to flower or survive, any selective advantages gained by the genetically engineered tobacco plants are not of concern in this field test.

5. The vector used to transfer the endochitinase gene into the tabacco chromosome has been evaluated for its use in this experiment. The vector, although derived from a plasmid with known plant pathogenic potential, has een disarmed; that is, genes which are necessary to confer plant pathogenic traits have been removed from the vector. The Vector has been tested and shown to be nonpathogenic to susceptible plants.

6. The vector agent, the bacterium which was used to deliver the vector that carries the endochitinase gene into the tobacco plant cell, was eliminated and is no longer associated with transformed plants.

7. Horizontal movement of genetic material after insertion into a plant genome has not been demonstrated. The vector acts by delivering the gene to the chromosomal DNA. The vector does not survive in a transformed plant. No mechanism is known to exist in nature to horizontally move an inserted gene from the chromosome of a plant to any other organism.

8. Endochitinase is an enzyme with ability to degrade structural components of fungi, nematodes, and certain insects. It has no reported mammalian toxicity.

9. The size of the field test plot is small (66 feet by 66 feet). The plot will be located on a private research farm and will have good security.

The environmental assessment and finding of no significant impact has been prepared in accordance with (1) The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*); (2) Regulations of the Council on Environmental; Quality for Implementing the Procedural Provisions of NEPA (Title 40, Code of Federal Regulations (CFR) Parts 1500–1508); (3) USDA Regulations Implementing NEPA (7 CFR Part 1b); and (4) APHIS Guidelines Implementing NEPA (44 FR 50381–50384 and 44 FR 51272–51274).

Done at Washington, DC, this 18th day of November 1988.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 88–27137 Filed 11–22–88; 8:45 am]

BILLING CODE 3410-34-M

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

Meeting

AGENCY: Christopher Columbus Quincentenary Jubilee Commission.

ACTION: Notice of meeting.

SUMMARY: This notice announces a forthcoming meeting of the Christopher Columbus Quincentenary Jubilee Commission, a presidential commission established in 1984 (Pub. L. 98–375). The meeting will be held in Miami, Florida and will be chaired by Commission Chairman John N. Goudie.

DATES: Friday, December 9, 1988, from 9:00 a.m. until 10: 00 a.m. (Closed). Friday, December 9, 1988 from 10:15 a.m. until 12:00 p.m. (Open). Saturday, December 10, 1988 from 9:00 a.m. until 1:00 p.m. (Open).

ADDRESSES: On December 9, 1988 from 9:00 a.m. to 12:00 p.m. at the Biltmore Hotel, Granada Room, Coral Gables, Florida. On December 10, 1988 from 9:00 a.m. to 1:00 p.m. at the Biltmore Hotel, Granada Room, Coral Gables, Florida.

FOR FURTHER INFORMATION CONTACT: Francisco J. Martinez-Alvarez (202) 632–1992.

SUPPLEMENTARY INFORMATION: On December 9 and 10, the Commission will meet to discuss proposals for endorsement of Quincentenary projects. Observers from the United States Information Agency, the National Park Service, and the Smithsonian Institution will make presentations to the Commission on December 9 and the Florida Columbus Hemispheric Trade Commission will make a presentation on December 10.

Francisco J. Martinez-Alvarez,

Acting Director.

[FR Doc. 88–27124 Filed 11–22–88; 8:45 am]

BILLING CODE 6820-RB-M

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Computer Systems Technical Advisory Committee; Partially Closed Meeting

A meeting of the Computer Systems Technical Advisory Committee will be held December 16, 1988, 1:30 p.m. at the Federal Building, Room 15018, 450 Golden Gate Avenue, San Francisco, CA.

The Committee advises the Office of Technology and Policy Analysis with respect to technical questions which affect the level of export controls applicable to computer systems or technology.

Agenda

Open Session

1. Opening Remarks by the Chairman.
2. Presentation of Papers or Comments by the Public.
3. Presentation by Apple Computers on Workstations.
4. Presentation by McDonnell Douglas on Data Encryption.
5. Discussion of the Bulletin Board Proposal.
6. Review of Draft 6031P Form.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be presented at any time before or after the meeting. The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on January 10, 1988, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified material listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in sections 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, DC 20230.

For further information or copies of the minutes, contact Betty Anne Ferrell on 202/377-2583.

Date: November 18, 1988.

Betty Anne Ferrell,

Director, Technical Support Unit Office of Technology and Policy Analysis

[FR Doc. 88-27084 Filed 11-22-88; 8:45 am]

BILLING CODE 3510-DT-M

Hardware Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Hardware Subcommittee of the Computer Systems Technical Advisory Committee will be held December 16, 1988, 9:00 a.m. in the Federal Building, Room 15018, 450 Golden Gate Avenue, San Francisco, California.

The Hardware Subcommittee was formed to study computer hardware with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

Agenda

1. Opening Remarks by the Chairman.
2. Presentation of Papers or Comments by the Public.
3. Review Telecommunications Proposals and Develop a Work Plan.
4. Develop a Simplified CCL 1565 Proposal.

The entire meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the subcommittee. For further information or copies of the minutes, call Betty Ferrell at (202) 377-2583.

Date: November 18, 1988.

Betty Anne Ferrell,

Director, Technical Support Unit, Office of Technology and Policy Analysis.

[FR Doc. 88-27085 Filed 11-22-88; 8:45 am]

BILLING CODE 3510-DT-M

Software Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Software Subcommittee of the Computer Systems Technical Advisory Committee will be held December 15, 1988, 9:00 a.m. in the Federal Building, Room 15018, 450 Golden Gate Avenue, San Francisco, California. The Software Subcommittee was formed to study computer software with the goal of making recommendations to the Department of Commerce relating to the appropriate parameters for controlling exports for reasons of national security.

Agenda

1. Opening Remarks by the Chairman.
2. Presentation of Papers or Comments by the Public.
3. Develop Subcommittee Positions on Draft Technical Data Regulations.
4. Discussion of New Network Software Changes.
5. Prepare for January Meeting on Data Encryption Standard.

The entire meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

For further information or copies of the minutes, call Betty Ferrell at (202) 377-2583.

Date: November 18, 1988.

Betty Anne Ferrell,

Director, Technical Support Unit, Office of Technology and Policy Analysis.

[FR Doc. 88-27086 Filed 11-22-88; 8:45 am]

BILLING CODE 3510-DT-M

Supercomputer Subcommittee of the Computer Systems Technical Advisory Committee; Open Meeting

A meeting of the Supercomputer Subcommittee of the Computer Systems Technical Advisory Committee will be held December 15, 1988 at 1:30 p.m., at the Federal Building, Room 15018, 450 Golden Gate Avenue, San Francisco, California. The Supercomputer Subcommittee was formed with the goal of making recommendations to the Department of Commerce relating to licensing issues with respect to supercomputers.

Agenda

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Status of Supercomputer Proposal.
4. Develop a Performance Measurement for Non-Vector Machines.

The entire meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

For further information or copies of the minutes, call Betty Ferrell at (202) 377-2583.

Date: November 18, 1988.

Betty Anne Ferrell,

Director, Technical Support Unit, Office of Technology and Policy Analysis.

[FR Doc. 88-27087 Filed 11-22-88; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

[A-122-806]

Initiation of Antidumping Duty Investigation; Generic Cephalexin Capsules from Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating an antidumping duty investigation to determine whether imports of generic cephalexin capsules from Canada are being, or are likely to be, sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of this action so that it may determine whether imports of this product materially injure, or threaten material injury to, a U.S. industry. If this investigation proceeds normally, the ITC will make its preliminary determination on or before December 12, 1988, and we will make our preliminary determination on or before April 5, 1989.

EFFECTIVE DATE: November 23, 1988.

FOR FURTHER INFORMATION CONTACT: Debra Conner or Louis Apple, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC., 20230, telephone (202) 377–1778 or (202) 377–1769.

SUPPLEMENTARY INFORMATION:

The Petition

On October 27, 1988, we received a petition filed in proper form by Biocraft Laboratories, Inc., on behalf of the industry in the United States which manufactures generic cephalexin capsules. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petitioner alleges that imports of generic cephalexin capsules from Canada are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

The petitioner has alleged that it has standing to file the petition. Specifically, petitioner has alleged that it is an interested party as defined under section 771(9)(C) of the Act, and that it has filed the petition on behalf of the U.S. industry manufacturing the product that is subject to this investigation.

If any interested party as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act wishes to register support of or opposition to this petition, please file written notification with the Commerce official cited in the **"FOR FURTHER INFORMATION CONTACT"** section of this notice.

United States Price and Foreign Market Value

Petitioner's estimate of United States price was based on an average of known Canadian prices it must use to meet the competition. Petitioner listed these prices (competitively met prices) for several customers.

Petitioner based foreign market value on prices published in *Drug Benefit Formularies,* by the Ministries of Health of Ontario and Saskatchewan, Canada. Petitioner states that these prices represent the lowest amount for which a listed drug product can be purchased in those provinces in Canada.

Based on a comparison of United States price and foreign market value, petitioner alleges dumping margins ranging from 18.42 to 39.73 percent.

Petitioner also alleges that "critical circumstances" exist with respect to imports of generic cephalexin capsules from Canada.

Initiation of Investigation

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it contains information reasonably available to the petitioner supporting the allegations.

We examined the petition on generic cephalexin capsules from Canada and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating an antidumping duty investigation to determine whether imports or generic cephalexin capsules from Canada are being, or are likely to be, sold in the United States at less than fair value. If our investigation proceeds normally, we will make our preliminary determination by April 5, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the U.S. tariff schedules will be fully converted to this *Harmonized Tariff Schedule* (HTS) and all merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item number(s). Until that time, however, the Department will be providing both the appropriate *Tariff Schedules of the United States Annotated* (TSUSA) item number(s) and the appropriate HTS item number(s) with its product descriptions. As with the TSUSA, the HTS item numbers are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

We are requesting petitioners to include the appropriate HTS item number(s) as well as the TSUSA item number(s) in all petitions filed with the Department through the end of this year. A reference copy of the HTS is available for consultation in the Central Records Unit, Room B–099, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230. Additionally, all U.S. Customs offices have reference copies, and petitioners may contact the import specialist at their local customs office to consult the schedule.

The products covered in this investigation are generic cephalexin capsules from Canada, as provided for in item 411.7600 of the *Tariff Schedules of the United States Annotated* (TSUSA) and currently classifiable under Harmonized System (HTS) item number 3004.20.00. Generic cephalexin capsules are cephalexin monohydrate in capsule form. Cephalexin monohydrate is a semi-synthetic cephalosporin antibiotic intended for oral administration. Its chemical formula is C16H17N304S.H20. Generic cephalexin capsules contain the equivalent of not less than 90 percent and not more than 120 percent of the labelled amount of cephalexin monohydrate. The capsule is made of a water soluble gelatin, designed to facilitate swallowing and a phased release of the drug into the user's digestive system.

We are tentatively excluding from the scope of this investigation certain proprietary brand-name cephalexin capsules which petitioner alleges differ from the generic product. Such differences allegedly include different consumer expectations, different promotional activities, and significantly different prices. While the Department does not normally consider proprietary brand-names in defining the scope of an investigation, we have done so in this particular instance because the differences alleged by petitioner between branded and generic pharmaceutical products appear to be far greater than would normally be the case for other types of products. We will continue to examine this issue, however, during the investigation and will consider any comments on this issue. Any comments should be addressed as noted in the **"FOR FURTHER INFORMATION CONTACT"** section of this notice.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of this action and to provide it with the information we used to arrive at this determination. We will notify the ITC and make available to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Assistant Secretary for Import Administration.

Preliminary Determination by the ITC

The ITC will determine by December 12, 1988, whether there is a reasonable indication that imports of generic cephalexin capsules from Canada materially injure, or threaten material injury to, a U.S. industry. If its determination is negative, this investigation will terminate; otherwise it

will proceed according to statutory and regulatory procedures.

This notice is published pursuant to section 732(c)(2) of the Act.

November 16, 1988.

Jan W. Mares,

Assistant Secretary for Import Administration.

[FR Doc. 88-27048 Filed 11-22-88; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Thomas H. Stillman, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room H1223, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 88-00016." A summary of the application follows:

Applicant: Wood Machinery Manufacturers of America (WMMA), 1900 Arch Street, Philadelphia, Pennsylvania 19103.

Contact: John S. Sataga, Counsel, *Telephone: (202) 639-8888.*

Application #: 88-00016.

Date Deemed Submitted: November 8, 1988.

Members (in addition to applicant): Abrasive Engineering and Manufacturing, Olathe, KS; Alexander Dodds Company, Grand Rapids, MI; Black Bros. Company, Mendota, IL; C R Onsrud, Inc., Troutman, NC; Crouch Machinery, Inc., Pinehurst, NC; CTD Machines, Inc., Los Angeles, CA; Delta International Machinery Corporation, Pittsburgh, PA; Diehl Machines, Wabash, IN; Fulghum Ind. Inc., Wadley, GA; Industrial Woodworking Machine Company, Garland, TX; James L. Taylor Manufacturing Company, Poughkeepsie, NY: Jenkins Division, Kohler General Corporation, Sheboygan Falls, WI; Ken Hazledine Machine Company, Inc., Terre Haute, IN; L.R.H. Enterprises, Inc., Van Nuys, CA., Lancaster Machinery Company, Lancaster, PA; Medalist Automated Machinery, Oshkosh, WI; Mereen-Johnson Machine Company, Minneapolis, MN; Mid-Oregon Industries, Bend, OR; Montaco, Inc., Orlando, FL; Newman Machine Company, Inc., Greensboro, NC; North American Products Corporation, Jasper, IN; Northfield Foundry and Machine Company, Northfield, MN; Oliver Machinery Company Grand Rapids, MI; Onsrud Machine Corporation, Wheeling, IL; Powermatic, McMinnville, TN; Robert A. Martin Company, Inc., Harvey, IL; Robert Bosch Power Tool Corporation, New Bern, NC; The Wallace Company, Pasadena, CA; Thermwood Corporation, Dale, IN; Timesavers, Inc., Minneapolis, MN; Tyler Machinery Company, Inc., Warsaw, IN; Whirlwind Inc., Dallas, TX; and Yates-American Machinery, Inc., Beloit, WI.

Summary of the Application

Export Trade

Products. Woodworking machines, woodworking systems, and accessories, principally, but not exclusively, classified in SIC # 3553, including: Cutting machines (including boring, dowelling, carving, dovetailing, mortising, planing, routing, sawing, shaping, profiling, tenoning, chucking, turning, and veneering machines); sanding machines (including edge, flat surface, irregular surface, and special-purpose sanding machines); gluing, laminating, and assembling machines (including assembly clamping, auxiliary gluing, edge gluing, surface gluing, pressing, and laminating machines); finishing machines (including applicator, auxiliary finishing, and drying machines and ovens); wood drying equipment (including dryers, kilns, and moisture measurement equipment); auxiliary machines and equipment (including environmental and safety equipment, materials handling equipment, auxiliary attachments, tool maintenance equipment, and tooling); special product and special purpose machines; logging and sawmilling machines (including log handling and preparation machines, log conversion equipment, and other auxiliary equipment and attachments); and wood residue utilization systems or equipment.

Services and Technology. Engineering, design, and related services related to Products and turnkey contracts that substantially incorporate Products; servicing of Products; training with respect to the use of Products; and technology licensing related to the manufacture and user of Products.

Export Trade Facilitation Services (as they relate to the Export of Products, Services, and Technology). Consulting; international market research; marketing and trade promotion; trade show participation; insurance; legal assistance; transportation; trade documentation and freight forwarding; communication and processing of export orders; warehousing; foreign exchange; financing; and taking title to goods.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia,the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

1. WMMA and/or one or more of its Members may:

a. Engage in joint bidding or other joint selling arrangements for Products, Services, and/or Technology in Export Markets and allocate sales resulting from such arrangements;

b. Establish export prices for sales of Products, Services, and/or Technology by the Members in Export Markets, with each Member being free to deviate from such prices by whatever amount it sees fit;

c. Discuss and reach agreements relating to interface specifications and engineering requirements demanded by specific potential customers for Products for Export Markets;

d. Refuse to quote prices for, or to market or sell in, Export Markets with respect to Products, Services and/or Technology;

e. Provide or jointly negotiate for and purchase from Suppliers Export Trade Facilitation Services for Members;

f. Solicit non-member Suppliers to sell their Products, Services, and/or Technology or offer their Export Trade Facilitation Services through the certified activities of WMMA and/or its Members;

g. Coordinate with respect to the installation and servicing of Products in Export Markets, including the establishment of joint warranty, service, and training centers in such markets;

h. License associated Technology rights in conjunction with the sale of Products, but in all instances the terms of such licenses shall be determined solely by negotiations between the licensor Member and the export customer without coordination with WMMA or any other Member;

i. Engage in joint promotional activities, such as advertising and trade shows, aimed at developing existing or new Export Markets;

j. Bring together from time to time groups of Members to plan and discuss how to fulfill the technical Product, Service, and/or Technology requirements of specific export customers or Export Markets; and

k. Operate and establish jointly owned subsidiaries or other joint venture entities, owned exclusively by Members, to export Products to Export Markets, operate warranty, service and training centers in Export Markets, and provide Export Trade Facilitation Services to Members.

2. WMMA and/or its Members may enter into agreements wherein WMMA and/or one or more Members agree to act in certain countries or markets as the Members' exclusive or non-exclusive Export Intermediary for Products, Services, and/or Technology in that country or market. In such agreements, (i) WMMA or the Member(s) acting as an exclusive Export Intermediary may agree not to represent any other Supplier for sale in the relevant country or market, and (ii) members may agree that they will export for sale in the relevant country or market only through WMMA or the Member(s) acting as exclusive Export Intermediary, and that they will not export independently to the relevant country or market, either directly or through any other Export Intermediary.

3. WMMA and/or its Members may exchange and discuss the following types of information:

a. Information that is already generally available to the trade or public;

b. Information about sales and marketing efforts for Export Markets; activities and opportunities for sales of Products, Services, and/or Technology in Export Markets; selling strategies for Export Markets; pricing in Export Markets; projected demands in Export Markets; customary terms of sale in Export Markets; the types of Products available from competitors for sale in particular Export Markets, and the prices for such Products; and customer specifications for Products in Export Markets;

c. Information about the export prices, quality, quantity, source, available capacity to produce, and delivery dates of Products available from Members for export, provided, however, that exchanges of information and discussions as to product quantity, source, available capacity to produce Products, and delivery dates must be on a transaction-by-transaction basis only, and shall relate solely to Products intended for or available for export;

d. Information about terms and conditions of contracts for sales in Export Markets to be considered and/or bid on by WMMA and its Members;

e. Information about joint bidding, selling, or servicing arrangements for Export Markets and allocation of sales resulting from such arrangements among the Members;

f. Information about expenses specific to exporting to and within Export Markets, including, without limitation, transportation, intermodal shipments, insurance, inland freight to port, port storage, commissions, export sales, documentation, financing, customs, duties, and taxes;

g. Information about U.S. and foreign legislation and regulations affecting sales in Export Markets; and

h. Information about WMMA or its Member's export operations, including, without limitation, sales and distribution networks established by WMMA or its Members in Export Markets, and prior export sales by Members (including export price information).

4. WMMA may provide its Members or other Suppliers the benefit of any Export Trade Facilitation Service to facilitate the export of Products to Export Markets. This may be accompanied by WMMA itself, or by agreement with Members or other parties.

5. WMMA and/or its Members may meet to engage in the activities described in paragraphs 1 through 4 above.

6. WMMA and/or its Members may refuse to provide to non-members Export Trade Facilitation Services or participation in the other activities described in paragraphs 1 through 5 above.

7. WMMA and/or its Members may forward to the appropriate individual Members requests for information received from a foreign government or its agent (including private pre-shipment inspection firms) concerning that Member's domestic or export activites (including prices and/or costs), and if such individual Member elects to respond, it shal respond directly to the requesting foreign government or its agents with respect to such information.

Date: November 18, 1988

Thomas H. Stillman,

Director, Office of Export Trading Company Affairs.

[FR Doc.88-27088 Filed 11-22-88; 8:45 am]

BILLING CODE 3510-DR-M

National Oceanic and Atmospheric Administration

Caribbean Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Caribbean Fishery Management Council and its advisory bodies will convene public meetings at the Hotel Pierre, Santurce, PR, and at the Council's Headquarters as follows:

Council—On December 6, 1988, at the Council's Headquarters (address below) at 9 a.m., will convene a closed session (not open to the public), to interview candidates for the Council's Executive Director position, and will adjourn at noon. On December 7, 1988, at the Hotel Pierre, 9 a.m., will convene its 65th regular public meeting to discuss the Shallow-water Reef Fish Fishery Management Plan (FMP)—Amendment #1, the draft Queen Conch FMP, Billfish FMP regulations, and consider other technical and administrative matters related to Council operations. The public meeting will recess at 5 p.m., reconvene December 8 at 9 a.m., and will adjourn at noon.

Administrative Committee—On December 6 at the Hotel Pierre the committee will convene its public meeting at 2 p.m., to discuss administrative matters related to the Council, and will adjourn at 5 p.m.

Scientific and Statistical Committee (SSC) and Advisory Plan (AP)—On December 5 the AP will convene at the Hotel Pierre at 9:30 a.m., and will adjourn at 5 p.m. On the same day the SSC will convene at 9:30 a.m., at the Council's Headquarters, and will adjourn at 5 p.m. Both groups will discuss the Shallow-water Reef Fish FMP—Amendment #1, the draft Queen Conch FMP, and the permitting and monitoring system for the Billfish FMP exemption to the artisanal handline fishery in Puerto Rico.

For further information contact the Caribbean Fishery Management Council, Banco de Ponce Building, Suite 1108, Hato Rey, PR 00918; (809) 753–4926.

Date: November 17, 1988.

Joe P. Clem,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–27080 Filed 11–22–88; 8:45 am]

BILLING CODE 3510–22–M

North Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The North Pacific Fishery Management Council will convene a public meeting at the Sheraton Hotel, Anchorage, AK, on December 5, 1988, at 10:30 a.m.:

Council—The Council will convene an executive session (not open to the public) on December 7 at noon to review nominations to the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and plan teams. With the exception of the executive session and the AP Nominating Committee meeting, all meetings are open to the public. The Council will consider final approval of allocative measures in the halibut fishery for the International Pacific Halibut Commission Regulatory Areas 4B (Aleutian Islands) and 4C (Pribilof Islands). These measures include designating fishing periods and limiting the amount of fish landed per trip. The Council will review sablefish management alternatives, including continued open access management, multispecies longline fishery, individual fishing quotas, license limitation, combinations systems, and determine which will be developed and sent to the Secretary of Commerce for implementation. The Council will determine the acceptable biological catches for 1989 for each of the groundfish species and species groups in the management areas of the Gulf of Alaska and Bering Sea and Aleutians, and set preliminary total allowable catches based on biological and socioecomic considerations. The Council will take public testimony on domestic processor and joint venture needs for 1989 and set initial apportionments to start the new fishing year, January 1 for most species. They will also consider taking emergency action to reduce the retention limit used in the sablefish directed fishing definition in the Bering Sea and Aleutian Island, and to establish a Shelikof Strait district in the Gulf of Alaska for pollock management. The Council will also reconsider its proposed bycatch plan for 1989 in the Bering Sea and Aleutians, and will review 1989 foreign permit applications for joint venture and directed fishing in the Gulf of Alaska and Bering Sea/Aleutian Islands. The Council's meeting will adjourn on December 9.

Other meetings to be held during the week are:

Committee/panel	Beginning
AP	10:30 a.m., Sunday, Dec. 4.
Herring Bycatch Workgroup	10:30 a.m., Sunday, Dec. 4.
SSC	1 p.m., Sunday, Dec. 4.
AP Nominating Committee	2:30 p.m., Sunday, Dec. 4.
Permit Review Committee	7 p.m., Sunday, Dec. 4.
Magnuson Fishery Conservation and Management Act Reauthorization Committee.	7 p.m., Tuesday, Dec. 6.
Finance Committee	7 a.m., Wednesday, Dec. 7.

Other meetings in addition to the above may be held on short notice. All public meetings will be held at the Sheraton Hotel unless otherwise noted. For further information contact the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510; telephone (907) 271–2809.

Date: November 22, 1988.

Joe P. Clem,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–27081 Filed 11–22–88; 8:45 am]

BILLING CODE 3510–22–M

Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Pacific Fishery Management Council's Groundfish Fishery Management Plan (FMP) Rewrite Oversight Group will convene a public meeting on November 30, 1988, at 1 p.m., at the Pacific Marine Fisheries Commission, Conference Room, 2075 SW. First Avenue, Suite 1C, Portland, OR, to review progress on FMP amendment #4, and to begin preparation of the public review document scheduled for release in April 1989. The public meeting will adjourn on December 1, 1988, at 3 p.m.

For further information contact Lawrence D. Six, Executive Director, Pacific Fishery Management Council, Metro Center, Suite 420, 2000 SW. First Avenue, Portland, OR 97201; telephone: (503) 221–6352.

Date: November 17, 1988.

Joe P. Clem,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88–27082 Filed 11–22–88; 8:45 am]

BILLING CODE 3510–22–M

Western Pacific Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council and the Council's Standing Committees will convene public meetings at the Ala Moana American Hotel, Honolulu, HI, as follows:

Council—at its 63rd meeting on November 28, 1988, at 1:30 p.m., will review the status and possibily make changes to the fishery management plans (FMPs) for crustaceans, pelagics, bottomfish and seamount groundfish, and precious corals on the basis of advice received from the Council's Advisory Panels (APs), its Plan Monitoring Teams, and its Scientific and Statistical Committee (SSC). Also on November 28 the Council will convene a closed session (not open to the public) at 4:30 p.m., to discuss personnel matters.

It is anticipated that the Council will elect officers for 1989, appoint Council Committee members and chairmen for 1989, appoint members to the AP for 1989–1991, approve a policy for selecting SSC members, review and comment on precious coral experimental SSC fishing applications, approve budgets for American Samoa, Guam and the Commonwealth of the Northern Mariana Islands native rights/limited entry projects, approve a programmatic budget for 1989–1990, and review the 1989 administrative budget. (Funds available for Regional Fishery Management Councils total $7.2 million

and Council budget requests for 1989 total $8.7 million.) The meeting will reconvene on November 29 at 9 a.m., and will adjourn at 5 p.m. The public is encouraged to participate in the Council's deliberations.

The Council's Standing Committees will covene on Sunday, November 27 at 10:00 a.m., will recess at 5 p.m., reconvene on November 28 at 8 a.m., and will adjourn at noon.

The public meeting will also include reports from Islanders, fisheries agencies and organizations, reports on foreign fishing and foreign and domestic enforcement, FMPs, reports from the Council's standing committees, reports on data and research needs, administrative matters, meetings and conferences, as well as any other business.

For further information contact Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Room 1405, Honolulu, HI 96813; telephone: (808) 523-1368.

Date: November 17, 1988.

Joe P. Clem,

Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.

[FR Doc. 88-27083 Filed 11-22-88; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Endangered Species; Application for Permit; Archie Carr Center for Turtle Research (P436)

Notice is hereby given that the Applicant has applied in due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531 through 1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Part 217 through 222).

1. Applicant: Archie Care Center for Sea Turtle Research, Department of Zoology, University of Florida, Bartham Hall, Gainesville, Florida 32611.

2. *Type of Permit:* Scientific Research.

3. *Name and Number of Species:*

Green turtle (*Chelonia mydas*), unspecified.

Loggerhead turtle (*Caretta caretta), unspecified.*

Hawksbill turtle (*Eretmochelys imbricata*), unspecified.

Leatherback turtle (*Dermochelys coriacea*), unspecified.

Oliver Ridley (*Lepicochelys olivacea*), unspecified.

Kemp's Ridley (*Lepicochelys kempii*), unspecified.

4. *Type of Take:* The applicant proposes to capture, tag, release, recapture, measure, sexed, collect blood samples, flush stomach, radio tag, and to perform non-injurious biopsies on sea turtles during the study of population dynamics. Up to 100 biopsies will be taken and no more than 20 will be radio tagged at any time in any study region. The objectives are to determine the movement and migration patterns; determine size distribution patterns and growth rates; determine population status; species composition and abundance; determine and monitor the physiological status of these sea turtle populations; and determine the negative impact of marine debris and pollutants on sea turtle populations.

5. *Location and Duration of Activity:* Offshore and inshore waters of the southeast United States (Atlantic and Gulf coasts of Florida, Atlantic coast of Georgia). Waters through the Bahamas which are known to be import feeding grounds for the U.S. populations of loggerheads and green turtles, and waters around the Azores.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries. All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, Maryland 20910; and Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Blvd, St. Petersburg, Florida 33702.

Date: November 17, 1988.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 88-27071 Filed 11-22-88; 8:45 am]

BILLING CODE 3510-22-M

COMMISSION ON EXECUTIVE, LEGISLATIVE AND JUDICIAL SALARIES

Meeting

Notice is hereby given, pursuant to Public Law 92-463, that the Commission on Executive, Legislative and Judicial Salaries will hold an Executive Session on December 6, 1988, from 9:30 a.m. to 12:30 p.m. The meeting on the 6th will be held at 736 Jackson Place NW., Washington, DC.

The purpose of the meeting is to discuss recommendations for the final report of the Commission.

For further information, please contact the Commission's office, 736 Jackson Place NW., Washington, DC 20415, telephone 275-8031.

Polly L. Gault,

Executive Director.

[FR Doc. 88-27173 Filed 11-21-88; 11:47 am]

DEPARTMENT OF ENERGY

Office of Fossil Energy

Coordinating Subcommittee on Petroleum Storage & Transportation, Committee on Petroleum Storage & Transportation, National Petroleum Council; Open Meeting

Notice is hereby given of the following meeting:

Name: Coordinating Subcommittee on Petroleum Storage and Transportation of the Committee on Petroleum Storage & Transportation of the National Petroleum Council

Date and Time: Monday, December 12, 1988, 3:00 PM; Tuesday, December 13, 1988, 11:30 AM

Place: National Petroleum Council Conference Room, 1625 K Street NW., Washington, DC

Contact: Margie D. Biggerstaff, U.S. Department of Energy, Office of Fossil Energy (FE-1), Washington, DC 20585. Telephone: 202/586-4695

Purpose of the Parent Council: To provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and gas or the oil and gas industries.

Purpose of the Meeting: Review Committee's request for further work on the draft volumes.

Tentative Agenda:

—Opening remarks by the Chairman and Government Cochairman.

—Review of the Committee's request for further work on the draft report volumes.

—Discuss any other matters pertinent to the overall assignment from the Secretary of Energy.

Public Participation

The meeting is open to the public. The Chairman of the Subcommittee on Petroleum Storage & Transportation is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Ms. Margie D. Biggerstaff at the address or telephone number listed above. Requests must be received at least 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Donald L. Bauer,

Principal Deputy Assistant Secretary, Fossil Energy.

[FR Doc. 88-27141 Filed 11-22-88; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 88-69-NG]

Seagull Marketing Services, Inc.; Application To Import Natural Gas From and Export Natural Gas To Canada

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of application for blanket authorization to import natural gas from and export natural gas to Canada.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on November 8, 1988, of an application filed by Seagull Marketing Services, Inc. (Seagull), for blanket authorization to import up to 150 Bcf of Canadian natural gas and export up to 150 Bcf of domestic natural gas to Canada over a two-year term beginning on the date of first import or export. Seagull intends to utilize existing pipeline facilities for transportation of the volumes to be imported or exported. Seagull also proposes to submit quarterly reports detailing each transaction.

The application is filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204-111. Protests, motions to intervene, notices of intervention and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed no later than November 23, 1988.

FOR FURTHER INFORMATION CONTACT:

William L. Durbin, Natural Gas Division, Economic Regulatory Administration, U.S. Department of Energy, Forrestal Building, Room 3F-091, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-9516.

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue SW., Washington, DC 20585, (202) 586-6667.

SUPPLEMENTARY INFORMATION: Seagull, a wholly-owned subsidiary of Seagull Energy Corporation, is a Texas corporation, with its principal place of business in Houston, Texas. Under the blanket authority sought, Seagull intends to import or export gas from or to Canada, either as a broker or agent, or for its own account, for short-term, spot sales to either United States or Canadian customers, including, but not limited to, gas distribution companies, electric utilities, agricultural users, pipelines, and industrial and commercial end-users. The specific terms of each import or export sale would be negotiated on an individual basis, including price and volume.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, the ERA considers the domestic need for the gas to be exported, and any other issue determined by the Administrator to be appropriate in a particular case. Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines for the import authority and on the domestic need for the gas in their responses on the requested export authority. The applicant asserts that this import/export arrangement will be in the public interest in that each import/export sale must be competitive in the U.S. and for Canadian gas markets served or no sales will be made. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

On August 9, 1988, the DOE published in the **Federal Register** (53 FR 29934) a notice of proposed amendments to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.*, effective on an interim basis upon publication. In that notice, the DOE proposed to amend the agency's NEPA guidelines to add to its list of categorical exclusions the approval or disapproval of an import/export authorization for natural gas in cases not involving new construction. Application of the categorical exclusion in any particular case raises a rebuttable presumption that the ERA's action is not a major Federal action under NEPA. Unless the ERA receives comments indicating the presumption does not or should not apply in this case, no further NEPA review will be conducted by the DOE.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room 3F-056, RG-23, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585. They must be filed no later than 4:30 p.m. e.s.t, December 23, 1988.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete

understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trial-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

In an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Seagull's application is available for inspection and copying in the Natural Gas Division Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 16, 1988.

Constance L. Buckley,

Acting Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 88-27104 Filed 11-22-88; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER89-49-000]

Pacific Gas & Electric Co.; Notice of Filing

November 18, 1988.

Take notice that on November 1, 1988, Pacific Gas and Electric Company (PG&E) tendered for filing a Transmission Rate Schedule Between PG&E and the Sacramento Municipal Utility District (SMUD).

PG&E states the rate schedule submitted will provide SMUD with firm and as-available transmission services and mitigation services for the transmission of electric power by PG&E between SMUD's points of interconnction with PG&E and PG&E's Midway Substation.

Copies of this filing were served upon SMUD and the California Public Utilities Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before December 5, 1988. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 88-27146 Filed 11-22-88; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city and State	File No.	MM Docket No.
A. Goodlettsville, Broadcasting Co., Inc., Goodlettsville, TN.	BPH-861215MI	88-487
B. SAR Broadcasting, Inc., Goodlettsville, TN.	BPH-861216MB	
C. Bledsoe Communications, Ltd., Goodlettsville, TN.	BPH-861216MD	
D. Heidelberg-Stone Broadcasting Co., Goodlettsville, TN.	BPH-861217MA	
E. Masterpeace Music, Goodlettsville, TN.	BPH-861217MD	
F. Mr. Toni E. Plummer, Goodlettsville, TN.	BPH-861217MG	
G. Phoenix of Goodlettsville, Inc., Goodlettsville, TN.	BPH-861217MI	
H. H. Randolph Holder, Jr. and Betty C. Holder, Goodlettsville, TN.	BPH-861217MJ	
I. DG Enterprises, Inc., Goodlettsville, TN.	BPH-861217ML	
J. Goodlettsville, Community Broadcasting, Inc., Goodlettsville, TN.	BPH-861217MM	
K. Innovative Broadcasting, Inc., Goodlettsville, TN.	BPH-861217MN	
L. Rudy A. Lindsey, Sr. and Faye B. Lindsey, husband and wife, a tenancy by the entireties, d.b.a. Lindsey Christian Broadcasting Co., Goodlettsville, TN.	BPH-861217MO	
M. Radio Goodlettsville, Inc., Goodlettsville, TN.	BPH-861217MP	
N. William E. Benns III, Goodlettsville, TN.	BPH-861217MQ	
O. Tennessee Women in Broadcasting, Inc., Goodlettsville, TN.	BPH-861217MT	
P. Geri Taczak, Goodlettsville, TN.	BPH-861217MV	
Q. Hartke Communications, Corp., Goodlettsville, TN.	BPH-861217MX	
R. Young Broadcasting, Inc., Goodlettsville, TN.	BPH-861217MZ	
S. Richard S. Francis, Goodlettsville, TN.	BPH-861217NA	
T. Goodlettsville Associates, Goodlettsville, TN.	BPH-861217NB	
U. John L. Sinclair, Goodlettsville, TN.	BPH-861217NC	
V. Tennessee Radio Ltd. Partnership, Goodlettsville, TN.	BPH-861217NF	

2. Pursuant to 47 U.S.C. 309(e), the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19,347 (May 29, 1986). The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicants

1. Environmental, C, E, O
2. Air Hazard, D, F, Q, S, V
3. Comparative, all
4. Ultimate, all

3. If there is any non-standardized issue in this proceeding, the full text of the issue and the applicant to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Service Division, Mass Media Bureau.

[FR Doc. 88–27114 Filed 11–22–88; 8:45 am]

BILLING CODE 6712-01-M

Applications for Consolidated Hearing

1. The Commission has before it the following mutually exclusive applications for a new TV station:

Applicant, city and State	File No.	MM DOCKET No.
A. Steven Heft d/b/a Hefty Communications, Ltd., Tuskegee, AL.	BPCT–870331QC..	88–488
B. Tuskegee Television, Tuskegee, AL.	BPCT–870602KF..	
C. Tuskegee Associates, Tuskegee, AL.	BPCT–870602KG..	
D. Tuskegee Communications, Inc., Tuskegee, AL.	BPCT–870602KM..	

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

Air Hazard, A, B, C, D
Environmental Impact, D
Comparative, A, B, C, D
Ultimate, A, B, C, D
Non-Standardized, B, C (See Appendix)

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

Appendix

2. To determine, with respect to Tuskegee Television:

(a) Whether Wesley Godfrey was a principal or real party in interest or was otherwise involved in Godfrey and Associates, an applicant for Channel 33, Shreveport, Louisiana, in the proceeding in MM Docket No. 83–687 and, if so, the effect thereof on Wesley Godfrey's basic qualifications; and

(b) All the facts and circumstances surrounding Wesley Godfrey's August 16, 1983 letter to Senator J. Bennett Johnston, in MM Docket No. 88–687, (2) whether said letter constituted a solicitation of an *ex parte* presentation in violation of Section 1.1225 of the Commission's Rules, and (3) the effect, if any, of the evidence adduced on Godfrey's basic qualifications.

(c) In light of the evidence adduced in 2(a) and 2(b), above, the effect, if any, upon the applicant's basic qualifications.

3. To determine, with respect to Tuskegee Associates:

(a) Whether, at the time it filed its application (BPCT–870731LP) for a construction permit for a new commercial television station to operate on Channel 66, Bradenton, Florida, in MM Docket No. 87–532, Florida Manatee TV Broadcast Associates was financially qualified to construct and operate the facility proposed;

(b) In the event that issue 3(a) is resolved in the negative, whether Florida Manatee TV Broadcast Associates engaged in misrepresentations or was otherwise lacking in candor in certifying its financial qualifications in its application in MM Docket No. 87–532; and

(c) In light of the evidence adduced pursuant to issues 3(a) and 3(b), above, the effect, if any, upon the applicant's basic qualifications.

[FR Doc. 88–27115 Filed 11–22–88; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1759]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

November 15, 1988.

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC, or may be purchased from the Commission's copy contractor, International Transcription Service (202–857–3800). Oppositions to these petitions must be filed December 9, 1988. See Section 1.4(b)(1) of the Commisison's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Chippewa Falls, Wisconsin and Red Wing, Minnesota) (MM Docket No. 87–310, RM's 5851 & 6121) Number of petitions received: 1.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 88–27113 Filed 11–22–88; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act.

SUMMARY: The submission is summarized as follows:

Type of Review: Renewal without any change.
Title: Country Exposure Report.
Form Number: FFIEC 009 and 009a.
OMB Number: 3064–0017.
Expiration Date of Current OMB Clearance: January 31, 1989.
Frequency of Response: Quarterly.
Respondents: Generally, insured state nonmember banks that hold international assets.
Number of Respondents: 36
Number of Responses Per Respondent: 4
Total Annual Responses: 144.

Average Number of Hours Per Response: 29.
Total Annual Burden Hours: 4,176.
OMB Reviewer: Gary Waxman, (202) 395-7340, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.
FDIC Contact: John Keiper, (202) 898-3810, Assistant Executive Secretary, Room 6096, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
Comments: Comments on this collection of information are welcome and should be submitted on or before January 23, 1989.

ADDRESSES: A copy of the submission may be obtained by calling or writing the FDIC contact listed. Comments regarding the submission should be addressed to the OMB reviewer listed. The FDIC would be interested in receiving a copy of the comments.

SUPPLEMENTARY INFORMATION: The FDIC is requesting OMB approval to continue the Country Exposure Report, Forms FFIEC 009 and 009a. The report is submitted pursuant to section 907 of the International Lending Supervision Act of 1983 (12 U.S.C. 3906) which requires each banking institution with foreign country exposure to submit, no fewer than four times each calendar year, information regarding such exposure. This information is used by the Federal banking agencies in assessing the international lending practices of the banks they supervise.

Dated: November 18, 1988.
Federal Deposit Insurance Corporation.
Hoyle L. Robinson,
Executive Secretary.
[FR Doc. 88-27077 Filed 11-22-88; 8:45 am]
BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-010716-003.
TITLE: San Francisco Terminal Agreement.
Parties: San Francisco Port Commission Evergreen Marine Corp. (Taiwan) Ltd.
Synopsis: The agreement cancels the application of Evergreen's arrangement with Japan Line, Inc. covered by Agreement Amendment 224-010716-001 and revises the prorata minimum guarantee. The agreement also provides for an amended scale of charges for wharfage and dockage.
Agreement No.: 224-200176.
Title: Bridgeton Municipal Port Authority Terminal Lease Agreement.
Parties: Bridgeton Municipal Port Authority (Port Authority) Genstar Stone Products Company (Genstar).
Filing Party: John Mattioni, Esquire, Mattioni, Mattioni & Mattioni, Ltd., 399 Market Street, 2nd Floor, Philadelphia, Pa. 19106.
Synopsis: The agreement provides for the Port Authority to grant Genstar an option to develop the property fronting on the Cohansey River for a large scale bulk aggregate materials handling facility for barge loading and unloading and a lease option.
Agreement No.: 224-200177.
Title: Port of Seattle Terminal Lease Agreement.
Parties: Port of Seattle, Matson Terminals Inc.
Synopsis: The agreement provides that the Port leases and grants to Matson facilities at Port of Seattle Terminal 25; rental of three container cranes (two preferentially assigned); and certain improvements with cost sharing by Matson.

By Order of the Federal Maritime Commission.
Dated: November 18, 1988.
Tony P. Kominoth,
Assistant Secretary.
[FR Doc. 88-27120 Filed 11-22-88; 8:45 am]
BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

The HongKong and Shanghai Banking Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 15, 1988.

A. Federal Reserve Bank of New York (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The HongKong and Shanghai Banking Corporation,* Hong Kong; Kellett N.V., Curacao, Netherlands Antilles; HSBC Holdings B.V., Amsterdam, The Netherlands; and Marine Midland Banks, Inc., Buffalo, New York; to acquire warrants for 24.9 percent of the voting shares of Statewide Bancorp, Toms River, New Jersey, and thereby indirectly acquire The First National Bank of Toms River, Toms River, New Jersey; and The First National Bank of New Jersey/Salem County, Penns Grove, New Jersey.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *First Cherokee Bancshares, Inc.,* Woodstock, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Cherokee, Woodstock, Georgia, a *de novo* bank.

2. *SouthTrust of South Carolina, Inc.,* Latta, South Carolina, and SouthTrust Corporation, Birmingham, Alabama; to acquire 100 percent of the voting shares of SouthTrust Bank of Charleston, N.A., Charleston, South Carolina, a *de novo* bank.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Lower Rio Grande Valley Bancshares, Inc., ESOP,* La Feria, Texas; to become a bank holding company by

acquiring 30 percent of the voting shares of Lower Rio Grande Valley Bancshares, Inc., La Feria, Texas, and thereby indirectly acquire First National Bank of La Feria, La Feria, Texas.

Board of Governors of the Federal Reserve System, November 17, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-27034 Filed 11-22-88; 8:45 am]

BILLING CODE 6210-01-M

NCNB Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 9, 1988.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NCNB Corporation*, Charlotte, North Carolina; to acquire 100 percent of the voting shares of MarketCenter Bank, N.A., Raleigh, North Carolina, a *de novo* bank.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *SouthTrust Corporation*, Brimingham, Alabama; to relocate its existing subsidiary, SouthTrust National Bank, from its current location in Phenix City, Alabama, to Columbus, Georgia.

C. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *First Chicago Corporation*, Chicago, Illinois; to acquire 100 percent of the voting shares of FCBAH Bank, Arlington Heights, Illinois, a *de novo* bank.

2. *First Oak Brook Bancshares, Inc.*, Oak Brook, Illinois; to acquire 100 percent of the voting shares of Liberty Bancorp, Inc., Broadview, Illinois, and thereby indirectly acquire Liberty Bank, Broadview, Illinois.

3. *NEB Corporation*, Fond du Lac, Wisconsin; to acquire 100 percent of the voting shares of Mount Calvary State Bank, Mount Calvary, Wisconsin.

4. *W-CV Bancorp, Inc.*, Westby, Wisconsin; to become a bank holding company by acquiring 93.97 percent of the voting shares of Westby-Coon Valley State Bank, Westby, Wisconsin.

D. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Union Planters Corporation*, Memphis, Tennessee; to acquire 100 percent of the voting shares of United Southern Corporation, Clarksdale, Mississippi, and thereby indirectly acquire United Southern Bank, Clarksdale, Mississippi.

E. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *United Missouri Bancshares, Inc.*, Kansas City, Missouri; to acquire 90 percent of the voting shares of Monroe City Bank, Monroe City, Missouri.

F. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *PTB Corporation*, Salem, Oregon; to become a bank holding company by acquiring 100 percent of the voting shares of Pioneer Trust Bank, N.A., Salem, Oregon.

Board of Governors of the Federal Reserve System, November 17, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-27035 Filed 11-22-88; 8:45 am]

BILLING CODE 6210-01-M

Norwest Corp.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 7, 1988.

A. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota, and its subsidiaries, Norwest Financial Services, Inc., Des Moines, Iowa, and Norwest Financial, Inc., Des Moines, Iowa; to acquire Charter Finance Company, Cape Girardeau, Missouri, and Mid South Finance Company of Illinois, McClure, Illinois, and thereby engage in consumer finance, sales finance, commercial finance, and the sale, on an agency basis of credit life and credit accident and health insurance underwritten by affiliated insurance companies, and of credit property and credit-related casualty insurance underwritten by unaffiliated insurance companies pursuant to section 4(c)(8) of the Bank Holding Company Act. These activities will be conducted in Cape Girardeau, Missouri.

Board of Governors of the Federal Reserve System, November 17, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-27036 Filed 11-22-88; 8:45 am]

BILLING CODE 6210-01-M

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notifications listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 6, 1988.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Chevis C. Swetman,* Biloxi, Mississippi; to acquire up to 20 percent of the voting shares of Peoples Financial Corporation, Biloxi, Mississippi, and thereby indirectly acquire The Peoples Bank of Biloxi, Biloxi, Mississippi.

B. **Federal Reserve Bank of Chicago** (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Steven Pfeiffer,* Rick Reed, Harry Walker, Donald Spencer, Marlin Cluts, and Theodore Tilton, all of Rochelle, Illinois; to acquire 72 percent of the voting shares of Leland National Bancorp, Inc., Leland, Illinois, and thereby indirectly acquire Leland National Bank, Leland, Illinois.

B. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First National Bank of Clarksdale Employee Stock Option Plan,* Clarksdale, Mississippi; to acquire an additional 3.3 percent of the voting shares of First Valley National Bank, Clarksdale, Mississippi, and thereby indirectly acquire First National Bank of Clarksdale, Clarksdale, Mississippi.

2. *L. Weems Trussell,* Fordyce, Arkansas; to acquire 12.72 percent of the voting shares of FBT Bancshares, Inc., Fordyce, Arkansas, and thereby indirectly acquire Fordyce Bank & Trust Company Fordyce, Arkansas, as the result of a stock redemption.

B. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Nyle E. Barlow,* Broomfield, Colorado; to acquire an additional 0.87 percent of the voting shares of the voting shares of Front Ridge Capital Corporation, Lafayette, Colorado, and thereby indirectly acquire Bank VII, Lafayette, Colorado.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Richard J. Meyer,* Fullerton, California; to acquire 23.26 percent of the voting shares of Pacific Inland Bancorp, Anaheim, California, and thereby indirectly acquire Pacific Inland Bank, Anaheim, California.

Board of Governors of the Federal Reserve System, November 17, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-27037 Filed 11-22-88; 8:45 am]

BILLING CODE 6210-01-M

Westpac Banking Corp.; Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo,* either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 9, 1988.

A. **Federal Reserve Bank of New York** (William L. Rutledge, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Westpac Banking Corporaion,* Sydney, Australia; to engage *de novo* through its subsidiary, Westpac Pollock Mortgage Finance, Inc., New York, New York, in making, acquiring, and servicing loans or other extensions of credit for the company's account or for the account of others, such as would be made by a mortgage company pursuant to § 225.25(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 17, 1988.

William W. Wiles,

Secretary of the Board.

[FR Doc. 88-27038 Filed 11-22-88; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register.**

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney

General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 10-31-88 AND 11-10-88

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN Number	Date terminated
VIAG Aktiengesellschaft, Banner Industries, Inc., ChemRex, Inc.	89-0045	Oct. 31, 1988.
The Equitable Life Assurance Society of the U.S., Alliance Imaging, Inc., Alliance Imaging, Inc.	89-0061	Do.
Agway Inc., Dairylea Cooperative Inc., Dairylea Cooperative Inc.	89-0085	Do.
Sadao Kondo, Dixie Yarns, Inc., Dixie Yarns, Inc.	89-0131	Do.
Ford Motor Co., Wells Fargo and Co., credit card accounts.	89-0146	Do.
Meredith Corp., Pan Associates L.P., Meredith/Burda Corp.	89-0162	Do.
Pan Associates, L.P., Meredith Corp., Meredith/Burda Corp.	89-0163	Do.
Connecticut Health System, Inc., NCH Corp., NCH Corp.	89-0164	Do.
Seagull Energy Corp., Tenneco, Inc., Houston Oil and Minerals Corp.	89-0177	Do.
Union Carbide Corp., Genesis, Ltd., Genesis, Ltd.	89-2737	Nov. 1, 1988.
Elsevier N.V., FPL Group, Inc., DAMAR Corp., and Real Estate Data Inc.	89-0079	Do.
Petrofina S.A., Tenneco Inc., TOC-Gulf Coast Inc.	89-0089	Do.
Kerr-McGee Corp., Flag-Redfern Oil Co., Flag-Redfern Oil Co.	89-0115	Do.
Consolidated Electrical Distributors, Inc., The Manitowoc, Co., Inc., The Manitowoc Co., Inc.	89-0046	Nov. 2, 1988.
Merrill Lynch and Co., Inc., GTE Corp., GTE Consumer Communications Products Corp.	89-0081	Do.
Cooper Industries, Inc., IMO Delaval Inc., Enterprise Engine and Compressor Division.	89-0136	Do.
Donald P. Kelly, BCI Associates, L.P., Beatrice Co.	89-0142	Do.
First Chicago Corp., Fleet Call, Inc., Fleet Call, Inc.	89-0171	Do.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 10-31-88 AND 11-10-88—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN Number	Date terminated
JWP Inc., Stephen Kornfeld, H. and F. Kornfeld, Inc.	89-0193	Do.
Colonial Realty/USA Corp., The Travelers Corp., Constitution Plaza Inc.	89-0031	Nov. 3, 1988.
Mobil Corp., Tenneco, Inc., Collins Pipeline Co.	89-0103	Do.
New York Life Insurance Co., Maxicare Health Plans, Inc., Maxicare Texas, Inc.	89-0207	Do.
Zero Corp., Air Cargo Equipment Corp., Air Cargo Equipment Corp.	89-0148	Nov. 4, 1988
Burlington Northern, Inc., John D. and Catherine T. MacArthur Foundation, MacArthur Foundation.	89-0165	Do.
Farmland Industries, Inc., CEPEX, Inc., CEPEX, Inc.	89-0183	Do.
NFU Acquisition Co., The Continental Corp., Loyalty Life Insurance Corp.	89-0190	Do.
Voting Trust of the Providence Journal Co., Odyssey Partners, Channel 36 Partners.	89-0200	Do.
Robert M. Bass, Naragansett First Fund, Naragansett Television Co. of California, Inc.	89-0204	Do.
EZ Communications, Inc., Outlet Communications, Inc., Outlet Broadcasting Inc.	89-0211	Do.
RT Holding S.A., Tolibia Irrevocable Trust I, Tolibia Cheese, Inc.	89-0218	Do.
Metropolitan Financial Corp., Roger L. Rovick, Edina Realty, Inc.	89-0221	Do.
Metropolitan Financial Corp., David P. Rovick, Edina Reality, Inc.	89-0222	Do.
Trustees of TIAA Stock, McCormick & Co., Inc., McCormick Properties, Inc.	89-0243	Do.
Trustees of TIAA, Acquisition Corp., Acquisition Corp.	89-0256	Do.
The Rouse Co., Acquisition Corp., Acquisition Corp.	89-0257	Do.
Motor-Columbus AG, Western Union Corp., Western Union Corp.	89-0078	Nov. 7, 1988.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 10-31-88 AND 11-10-88—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN Number	Date terminated
Walton Monroe Mills, Inc., MacField, Inc., MacField, Inc.	89-0141	Do.
Robert F.X. Sillerman, Metropolitan Broadcasting Holding Co., Metropolitan Broadcasting Holding Co.	89-0168	Do.
Melville Corp., The Finish Line, Inc., The Finish Line, Inc.	89-0208	Do.
Carl C. Brazell, Jr., Carl E. Hirsch (Legacy Broadcasting Inc.), KPKE Acquisition Corp., KHOW Acquisition Corp.	89-0219	Do.
Carl C. Brazell, Jr., Robert F.X. Sillerman, Metropolitan Broadcasting of Dallas, Metropolitan Broad.	89-0220	Do.
First Spring Financial Associates, Galaxie Corp., Lamar Life Insurance Co.	89-0224	Do.
Manfred David Moross, Galaxie Corporation, Lamar Life Insurance Co.	89-0225	Do.
Peter Munk, Goldstein Oil Co., Clark Oil and Refining Corp. and 29 other entities.	89-0241	Do.
Peter Munk, Novelly Oil Co., Clark Oil and Refining Corp., and 29 other entities.	89-0242	Do.
The Fulcrum III Limited Partnership, Cigna Corp., Horace Mann Educators Corp.	89-0271	Do.
PacifiCorp, Hunt Petroleum Corp., Black Lake Pipe Line Co. and certain assets of HPC.	89-0053	Nov. 8, 1988.
Kaydon Corp., NN Ball and Roller Corp., NN Ball and Roller Corp.	89-0091	Do.
Rhode-Poulenc S.A., Nucor Corp., Research Chemicals Inc.	89-0110	Do.
Columbia Pictures Entertainment, Inc., A. Jerrold Perenchio, Loews Meadowland Cinemas 8 Associates.	89-0125	Do.
Columbia Pictures Entertainment, Inc., Columbia Pictures Entertainment, Inc., Loews Meadowland Cinemas 8 Associates, Loews-Hartz.	89-0135	Do.

TRANSACTIONS GRANTED EARLY TERMINATION BETWEEN: 10-31-88 AND 11-10-88—Continued

Name of acquiring person, Name of acquired person, Name of acquired entity	PMN Number	Date terminated
Macfield, Inc., Morgan Stanley Group Inc., Burlington Industries, Inc. (Madison Yarn Company Div.).	89-0160	Do.
Willamette Industries, Inc., Boise Cascade Corp., Boise Cascade Corp.	89-0176	Do.
Alvin C. Copeland, Church's Fried Chicken, Inc., Church's Fried Chicken, Inc.	89-0199	Do.
Huffy Corp., Washington Inventory Service, Washington Inventory Service.	89-0230	Do.
The Gorman-Rupp Co., Banner Industries, Inc., Patterson Pump Co.	89-0074	Nov. 10, 1988.
AMEC PLC, Matthew Hall PLC, Matthew Hall PLC.	89-0182	Do.
RFS Equity Partners II, L.P., Beijer Industries AB, Calmar Inc.	89-0192	Do.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay, Contact Representatives, Premerger Notification Office Bureau of Competition, Room 303, Federal Trade Commission, Washington, DC 20580, (202) 326-3100.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 88-27117 Filed 11-22-88; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Activities Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0058, Deposit Bond—Annual Sale of Government Personal Property, SF 151. This form is used by a bidder participating in sales of Government personal property whenever the sales invitation permits an annual type of Deposit Bond in lieu of cash or other form of bid deposit.

AGENCY: Federal Supply Service (FBP), GSA.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC, 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th, NW., Washington, DC 20405.

Annual Reporting Burden: Individuals responding, 400; responses, 1 per year; average hours per response, .25; burden hours, 100.

FOR FURTHER INFORMATION CONTACT: William Tesh, Jr. 703-557-0807.

Copy of Proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202-535-7691.

Dated: November 17, 1988.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 88-27090 Filed 11-22-88; 8:45 am]

BILLING CODE 6820-24-M

Agency Information Collection Activities Under OMB Review

The GSA hereby gives notice under the Paperwork Reduction Act of 1980 that it is requesting the Office of Management and Budget (OMB) to renew expiring information collection 3090-0057, Deposit Bond Individual—Sale of Government Personal Property, SF 150. This form is used by a bidder participating in sales of Government personal property whenever the sales invitation permits an individual type of Deposit Bond in lieu of cash or other form of bid deposit.

AGENCY: Federal Supply Service (FSP), GSA.

ADDRESSES: Send comments to Bruce McConnell, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to Mary L. Cunningham, GSA Clearance Officer, General Services Administration (CAIR), F Street at 18th, NW., Washington, DC 20405.

Annual Reporting Burden: Individuals responding, 50; responses, 1 per year; average hours per response, .5; burden hours, 25.

FOR FURTHER INFORMATION CONTACT: John Hansley, 703-557-0807.

Copy of Proposal: A copy of the proposal may be obtained from the Information Collection Management Branch (CAIR), Room 3014, GS Bldg., Washington, DC 20405, or by telephoning 202-535-7691.

Dated: November 17, 1988.

Emily C. Karam,

Director, Information Management Division (CAI).

[FR Doc. 88-27091 Filed 11-22-88; 8:45 am]

BILLING CODE 6820-24-M

Availability of Final Environmental Impact Statement for the Proposed Federal Building in Downtown Chicago

November 15, 1988.

The General Services Administration (GSA) has prepared a Final Environmental Impact Statement (FEIS) for the proposed construction of a 600,000 occupiable square foot Federal Building in downtown Chicago. The limits of the geographical area under consideration for the building are bounded to the north and west by the Chicago River, to the east by Lake Michigan, and to the south by Congress Parkway. Within this geographical area, three potential sites are evaluated.

The proposed Federal Building will house the regional headquarters of various Federal agencies. The principal utilization of the facility will be for administrative and management functions; minimal public service functions are anticipated. Sixty parking spaces reserved for Government use will also be incorporated into the structure.

The building will be acquired through a lease finance mechanism which will place the property in private ownership for as long as thirty years. GSA intends to award a lease contract to a developer by the end of 1988. Offerors will identify, propose, and acquire the site, as well as suggest their own design for the building. Occupancy of the completed facility is slated for mid-1991.

Copies of the Final Environmental Impact Statement are available from: Robert A. Nawrocki, Planner, Planning Staff—5PL, 230 South Dearborn Street, Room 3618, Chicago, Illinois 60604, (312) 353-5610.

The Council on Environmental Quality regulations provide for a 30 day review period; comments can be directed to the person above.

Alan A. Drazek,

Regional Administrator.

[FR Doc. 88-27148 Filed 11-22-88; 8:45 am]

BILLING CODE 6820-23-M

Federal Supply Service Consortium of Federal, Academic, and Industry Logistics Experts

Meeting Notice:

Notice is hereby given that the Consortium of Federal, Academic, and

Industry Logistics Experts will meet December 7, 1988, from 10:00 am to 12:00 noon in Crystal Mall Building 4, Room 1129, Arlington, Virginia. The purpose of the meeting is to provide a forum for exchange on logistics issues, among member civilian agencies.

The agenda for this meeting will include an update on the fiscal year 1989 agenda topics and an examination of industry supply distribution.

The meeting will be open to the public.

For further information contact Mr. William B. Foote, Assistant Commissioner for Customer Service and Marketing, GSA/FSS, Washington, DC 20406, telephone (703) 557-7970.

Dated: November 17, 1988.

Donald C.J. Gray,

Commissioner, Federal Supply Service, GSA.

[FR Doc. 88-27050 Filed 11-22-88; 8:45 am]

BILLING CODE 6820-24-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

Policies and Procedures for Establishing a National Registry of Persons Exposed to Hazardous Substances

AGENCY: Department of Health and Human Services (DHHS): Agency for Toxic Substances and Disease Registry (ATSDR).

ACTION: Notice of availability.

Notice is hereby given that the final document "Policies and Procedures for Establishing a National Registry of Persons Exposed to Hazardous Substances" (National Exposure Registry) is available. Notification of the availability of the draft of this document and a solicitation for comments was published in the **Federal Register** on Thursday, January 14, 1988 (53 FR 953).

All persons who previously requested this document will receive the final document by mail without further request.

A limited supply of copies will be made available to the public upon request. Requests should be made in writing to: Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., MS-F-38, Atlanta, GA 30333, ATTN: Dr. JeAnne Burg.

Dated: November 17, 1988.

Walter R. Dowdle,

Acting Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 88-27047 Filed 11-22-88; 8:45 am]

BILING CODE 4160-70-M

Food And Drug Administration

[Docket No. 85N-0483]

Policy on Eligibility of Drugs For Orphan Designation; Revision of Policy

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: In accordance with the Orphan Drug Amendments of 1988 (the 1988 amendments), the Food and Drug Administration (FDA) has revised its policy on the timing of requests for designation of drugs as drugs for diseases or conditions that are considered rare in the United States (orphan drugs). FDA is announcing that a drug is eligible for orphan-drug designation if the sponsor's request for designation is received by FDA before the submission of a marketing application for the proposed indication for which designation is requested. This is a revision of FDA policy before the 1988 amendments which had provided that requests for orphan-drug designation should be filed prior to the marketing approval of a drug for that rare disease or condition.

DATE: The revised policy for the eligibility of a drug for orphan designation became effective April 18, 1988.

FOR FURTHER INFORMATION CONTACT: Emery J. Sturniolo, Office of Orphan Products Development (HF-35), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4903.

SUPPLEMENTARY INFORMATION: Section 526 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360bb) as added by the Orphan Drug Act (Pub. L. 97-414), provides that the manufacturer or sponsor of a drug may request FDA to designate the drug as a drug for a rare disease or condition. Further, section 526 of the act requires that FDA so designate the drug provided that the agency finds that:

(1) The drug "is being or will be investigated for a rare disease or condition;" and

(2) Approval of a marketing application for the drug "would be for use for such disease or condition."

In the **Federal Register** of February 5, 1986 (51 FR 4505), FDA issued an advance notice of the agency's intent to initiate rulemaking to establish procedures to implement the Orphan Drug Act. As part of that notice, FDA advised that, pending completion of the rulemaking process, the agency would follow a policy that a drug is eligible for orphan-drug designation provided only that the sponsor's request for orphan-drug designation is received by FDA before the agency approves a marketing application for the drug for that rare disease or condition. The agency also announced that it intended to include in the proposed rule the policy regarding timing of requests for such designation.

On April 18, 1988, the 1988 amendments (Pub. L. 100-290) amended section 526 of the act to provide in pertinent part: "A request for designation of a drug shall be made before the submission of an application under section 505(b) [21 U.S.C. 355(b)] for the drug, the submission of an application for certification of the drug under section 507 [21 U.S.C. 357], or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act [42 U.S.C. 262]."

Accordingly, FDA may no longer follow its previous policy regarding the timing of requests for orphan-drug designation. Although FDA expects to issue its proposed rule in the near future and will include in that rule the policy respecting submission of requests for orphan-drug designation established by the 1988 amendments, the agency has not yet completed development of the proposal. For this reason, to ensure that interested members of the public are made aware of the change in a timely manner, FDA has decided to issue this notice of its necessary change in policy rather than wait until the proposed rule is published.

Accordingly, FDA advises that for a drug to be eligible for orphan-drug designation under section 526 of the act, FDA must receive the sponsor's request for such designation prior to the submission of a marketing application for that drug for that rare disease or condition, filed under section 505(b) or 507 of the act or section 351 of the Public Health Service Act.

Under the pertinent amendments to section 526 of the act, FDA must receive a request for orphan-drug designation before a marketing application is riled for that drug for that specific use for which designation is requested. However, the enactment of Pub. L. 100-290 does not foreclose the agency from granting the orphan-drug designation to sponsors acting in good faith who had marketing applications filed by FDA

prior to April 18, 1988, provided no final action on the marketing application was taken by that date.

FDA advises that the revised policy for the eligibility of a drug for orphan designation announced in this notice was effective April 18, 1988, the date of enactment of the 1988 amendments.

Dated: November 16, 1988.

John W. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 88-27055 Filed 11-21-88; 8:45 am]

BILLING CODE 4160-01-M

Food and Drug Administration

Advisory Committee; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

Gastroenterology-Urology Devices Panel

Date, time, and place. December 6 and 7, 1988, 9 a.m., Room T-416-418, Twinbrook Building 4, 12720 Twinbrook Parkway, Rockville, MD.

Type of meeting and contact person. Open public hearing, December 6, 1988, 9 a.m. to 11 a.m.; open committee discussion, 11 a.m. to 12 m.; closed presentation of data, 1:30 p.m. to 2:30 p.m.; open committee discussion, 2:30 p.m. to 4 p.m.; open committee discussion, December 7, 1988, 9 a.m. to 11 a.m.; closed presentation of data, 11 a.m. to 12 m.; open committee discussion, 1:30 p.m. to 3 p.m.; Frank S. Cascinani, Center for Devices and Radiological Health (HFZ-420), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7750.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. On December 6, 1988, between 9 a.m. and 11 a.m., the results of research performed on the post treatment effects of lithotripsy including hypertension will be presented. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before November 24, 1988, and submit a brief statement of the general nature of the evidence or argument they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss safety and effectiveness data for devices for extracorporeal shock wave lithotripsy.

Closed presentation of data. The committee may discuss trade secret and/or confidential commercial information regarding the materials, design, computer software, and manufacturing information for the lithotriptors. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Orthopedic and Rehabilitation Devices Panel

Date, time, and place. December 15 and 16, 1988, 8 a.m., Conference Rooms G and H, Parklawn Building, 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, December 15, 1988, 8 a.m. to 9 a.m.; open committee discussion, 9 a.m. to 10:30.; closed presentation of data, 10:30 a.m. to 11 a.m.; open committee discussion, 12:30 p.m. to 2 p.m.; closed presentation of data, 2 p.m. to 2:30 p.m.; open committee discussion, 2:45 p.m. to 4:15 p.m.; closed presentation of data, 4:15 p.m. to 4:45 p.m.; open public hearing, December 16, 1988, 8 a.m. to 9 a.m.; open committee discussion 9 a.m. to 11 a.m.; closed committee deliberations, 11 a.m. to 11:30 a.m.; Marie A. Schroeder, Center for Devices and Radiological Health (HFZ-410), Food and Drug Administration, 8757 Georgia Avenue, Silver Spring, MD 20910, 301-427-7156.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before December 8, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application for a bone growth stimulator, 4-year followup data for two approved bone growth stimulators, and comments submitted to FDA regarding the guidance document for application submissions for intra-articular prosthetic knee ligament devices.

Closed presentation of data. Trade secret and/or confidential commercial information will be presented to the committee regarding the premarket approval application for a bone growth stimulator and the 4-year followup data for two approved bone growth stimulator devices. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Closed committee deliberations. The committee may discuss trade secret and/or confidential commercial information regarding the guidance document for certain application submissions that relate to preparation of investigational device exemptions and premarket approval applications for intra-articular prosthetic knee ligament devices. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Peripheral And Central Nervous System Drugs Advisory Committee

Date, time, and place. December 20, 1988, 9 a.m., Conference Room. G, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, December 20, 1988, 9 a.m. to 10 a.m., unless public participation does not last that long; closed committee deliberations, 10 a.m. to conclusion; Frederick J. Abramek, Center for Drug Evaluation and Research (HFD-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4020.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drugs for use in the treatment of neurological disease.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before December 6, 1988, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed

participants, and an indication of the approximate time required to make their comments.

Closed committee deliberations. The committee will hear trade secret and/or confidential commercial information relevant to the investigational new drug (IND) application 30,045. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI–35), Food and Drug Administration, Rm. 12A–16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a)(1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: November 16, 1988.

James S. Benson,

Acting Deputy Commissioner.

[FR Doc. 88–27051 Filed 11–22–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88F–0372]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethylene oxide-propylene oxide block copolymer, polyethylene glycol (600) dioleate, propylene glycol monooleate and isopropyl alcohol as boiler water additives.

FOR FURTHER INFORMATION CONTACT: Robert L. Martin, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C Street

SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug and Cosmetic Act (section 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, has filed a petition (FAP 8A4111) proposing that 21 CFR Part 173—*Secondary Direct Food Additives Permitted in Food and Human Consumption* be amended to provide for the safe use of ethylene oxide-propylene oxide block copolymer, polyethylene glycol (600) dioleate, propylene glycol monooleate and isopropyl alcohol as boiler water additives.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: November 14, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88–27053 Filed 11–22–88; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 88G–0371]

The NutraSweet Co.; Filing of Petition for Affirmation of Gras Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The NutraSweet Co., has filed a petition (GRASP 8G0345), proposing to affirm that microparticulated egg and milk protein product is generally recognized as safe (GRAS) as a direct human food ingredient.

DATE: Comments by January 23, 1989.

ADDRESS: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, Room 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: JoAnn Ziyad, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–426–9463.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 8G0345) has been filed by The NutraSweet Co., 1751 Lake Cook Road, Deerfield, IL 60015, proposing that microparticulated egg and milk protein product be affirmed as GRAS for use as a direct human food ingredient.

The GRAS affirmation petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the requirements outlined in §§ 170.30 and 170.35 (21 CFR 170.30 and 170.35) is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Interested persons may, on or before January 23, 1989, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether this substance is, or is not, GRAS for the proposed use. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: November 14, 1988.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 88–27054 Filed 11–22–88; 8:45 am]

BILLING CODE 4160–01–M

Consumer Participation; Notice of Open Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meetings: DETROIT DISTRICT OFFICE, chaired by Louis F. Schneider, Acting District Director. The topics to be discussed are tampon labeling and other items of current concern.

DATE: Tuesday, December 6, 1988, 10 a.m.

ADDRESS: George Potter Larrick Bldg., Conference Rm., 1560 East Jefferson Ave., Detroit, MI 48207.

FOR FURTHER INFORMATION CONTACT: Evelyn DeNike, Consumer Affairs Officer, Food and Drug Administration, 1560 East Jefferson Ave., Detroit, MI 48207, 313–226–6260.

DETROIT DISTRICT OFFICE, chaired by Kenneth Ewing, Grand Rapids Resident Post Supervisory Investigator. The topic to be discussed are tampon labeling and other items of current concern.

DATE: Wednesday, December 7, 1988, 10 a.m.

ADDRESS: Kent County Public Health Facility, 700 Fuller Ave. NE., Grand Rapids, MI 49503.

FOR FURTHER INFORMATION CONTACT: Evelyn DeNike, Consumer Affairs Officer, Food and Drug Administration, 1560 East Jefferson Ave., Detroit, MI 48207, 313–226–6260.

SUPPLEMENTARY INFORMATION: The purpose of these meetings is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's District Offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 18, 1988.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 88–27116 Filed 11–22–88; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Pub. L. 92–463, the Annual Report for the following Health Resources and Service Administration Federal Advisory Committee has been filed with the Library of Congress:

Maternal and Child Health Research Grants Review Committee

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas

Jefferson Building, Second Street and Independence Avenue SE., Washington, DC, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, Room G-400, 330 Independence Avenue SW., Washington, DC, telephone (202) 245-6791. Copies may be obtained from:

Gontran Lamberty, Dr.Ph.H., Executive Secretary, Maternal and Child Health Research Grants Review Committee, Room 6-17, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-2190.

Date: November 17, 1988.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 88-27049 Filed 11-22-88; 8:45 am]

BILLING CODE 4160-15-M

Health Care Financing Administration

[IOA-018-N]

Medicare Program; Meeting of the Advisory Committee on Home Health Claims

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice announces a meeting of the Advisory Committee on Home Health Claims for the purpose of studying the reasons for the increase in the denial of claims for home health services during 1986 and 1987, the ramifications of the increase, and the need to reform the process involved in these denials. The meeting will be open to the public.

DATE: The meeting will be held on December 8, 1988 from 9:30 a.m. to 4:30 p.m., Mountain Standard Time (MST), and on December 9, 1988 from 9:30 a.m. to 2:00 p.m., MST.

ADDRESS: The meeting will be held in the La Posada de Albuquerque, 125 Second Street, NW., Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION, CONTACT: Wilhelm Pickens: (301) 966-7476.

SUPPLEMENTARY INFORMATION: On July 1, 1988, the Medicare Catastrophic Coverage Act of 1988 (Pub. L. 100-360) was enacted. Section 427 of Pub. L. 100-360 established the Advisory Committee on Medicare Home Health Claims. Additionally, section 427 requires the Advisory Committee to report by July 1, 1989 to the Administrator of the Health Care Financing Administration (HCFA) and to the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate, its findings on the denial of claims for home health services in 1986 and 1987. The Advisory Committee must study—

(1) The reasons for the increase in the denial of claims for home health services during 1986 and 1987;

(2) The ramifications of that increase; and

(3) The need to reform the process involved in the denials.

The Advisory Committee will address fully these three specified duties before it takes up any other questions. The recommendations of the Advisory Committee are intended to be used only at the option of HCFA and Congress.

Agenda items for the meeting will include presentations from experts in the field of home health services, and discussions of directions and issues to be addressed at subsequent meetings.

Agenda items are subject to change as priorities dictate.

(Catalog of Federal Domestic Assistance Program No. 13,774; Medicare—Supplementary Medical Insurance)

Dated: November 16, 1988.

William L. Roper,

Administrator, Health Care Financing Administration.

[FR Doc. 88-27125 Filed 11-22-88; 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-88-1896]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposals.

ADDRESS: Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: John Allison, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Cristy.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total numbers of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 16, 1988.

John T. Murphy,

Director, Information Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Request of Occupied Conveyance (Handbook 4310.5 REV. 1)

Office: Housing

Description of the Need for the Information and Its Proposed Use: This information collection is used by the occupant to request from HUD permission to remain as a tenant of a property that has been conveyed to HUD. HUD uses the information to determine if the occupant is financially able to pay the fair market rent.

Form Number: HUD-9539

Respondents: Individuals or Households and Businesses or Other For-Profit

Frequency of Submission: On Occasion

Reporting Burden:

	Numer of respondents	x	Frequency of response	x	Hours per respondent	=	Burden hours
Request for occupied conveyance	7,950		1		.5		3,975

Total Estimated Burden Hours: 3,975
Status: Revision
Contact: Author M. Orton, HUD, (202) 755–5740; John Allison, OMB, (202) 395–6880.

Date: November 16, 1988.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Indian Preference Final Rule (FR–1808)
Office: Public and Indian Housing
Description of the Need for the Information and Its Proposed Use: This collection implements Section 7 of the Indian Self-Determination and Education Assistance act which requires that preference be given to Indian enterprises and organizations in contracting, subcontracting, employment, and training. The reporting requirements are for materials that contractors must submit to ensure that the preferences are provided.
Form Number: None
Respondents: State or Local Governments and Small Businesses or Organizations
Frequency of Submission: On Occasion and Recordkeeping
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per Response	=	Burden hours
Proof of ownership	200		1		5.00		1,000
Statement of subcontracting	350		1		2.57		900
Statement of employment	350		1		2.57		900
Complaint reports	10		1		8.00		80
Alternate methods	5		1		8.00		40
Recordkeeping	100		1		.25		25

Total Estimated Burden Hours: 2,945
Status: Reinstatement
Contact: Dominic A. Nessi, HUD, (303) 755–1015; John Allison, OMB, (202) 395–6880
Date: November 16, 1988

Notice of Submission of Proposed Information Collection to OMB

Office: Housing
Description of the Need for the Information and Its Proposed Use: This collection is comprised of the initial and subsequent demand letters used by HUD to collect monies on delinquent property improvement and manufactured housing loans assigned to the Federal Government after the lender has exhausted its collection effort and has submitted a claim to HUD for loan reimbursement.
Form Number: HUD–9812–1
Respondents: Individuals or Households
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per Response	=	Burden hours
Title I Collection Letters	1,000		1		.083		83

Total Estimated Burden Hours: 83
Status: Extension
Contact: Carol A. White, HUD, (202) 755–6857; John Allison, OMB, (202) 395–6880
Date: November 14, 1988.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Definition of Income, Rents, and Recertification of Family Income for the Rent Supplement and Section 236 Programs
Office: Housing
Description of the Need for the Information and Its Proposed Use: HUD regulations require owners use good faith efforts to admit tenants first who are eligible for the appropriate tenant based subsidy; second who are eligible to pay a below market rent under a project based subsidy; and third who can pay the market rent. The regulations further require owners to seek written HUD approval in the latter two categories. HUD needs the information collected through waiver requests to evaluate, approve, and track the number of tenants who are housed and do not receive the benefit of a tenant-based subsidy.
Form Number: None
Respondents: Businesses or Other For-Profit, Non-profit Institutions, and Small Businesses or Organizations
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per Response	=	Burden hours
Waiver requests	350		1		1		350

Total Estimated Burden Hours: 350
Status: Extension
Contact: Judith L. Lemeshewsky, HUD, (202) 426–3944; John Allison, OMB, (202) 295–6880
Date: November 16, 1988.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Certification Request Documentation

Office: Fair Housing and Equal Opportunity
Description of the Need for the Information and Its Proposed Use: The information collection is necessary to assist HUD in making an assessment with respect to State and local agencies' legal and administrative capabilities to administer their fair housing laws. The agencies seeking recognition must submit copies of Attorney General's opinions; administration and operating information (budget, personnel, etc.); and additional information relative to the agencies' abilities to satisfactorily administer their laws or ordinances.
Form Number: None
Respondents: State or Local Governments
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Requests for certification	30		1		17		510

Total Estimated Burden Hours: 510
Status: Revision
Contact: Maxine B. Cunningham, HUD, (202) 755–0455; John Allison, OMB, (202) 395–6880
Date: October 27, 1988.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Housing Discrimination Complaint Forms (English/Spanish Version)

Office: Fair Housing and Equal Opportunity
Description of the Need for the Information and Its Proposed Use: Pursuant to Public Law 90–284, any person who believes he/she has been or is about to be injured by a discriminatory housing practice on the basis of race, color, religion, sex, or national origin may file a complaint with the Secretary of HUD using this form. HUD needs the information provided for the basis of an investigation of a housing discrimination complaint.
Form Number: HUD–903 and 903A
Respondents: Individuals or Households, State or Local Governments, and Businesses or Other For-Profit
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Discrimination complaint form	8,400		1		1		8,400

Total Estimated Burden Hours: 8,400
Status: Revision
Contact: Wagner D. Jackson, HUD, (202) 755–6836; John Allison, OMB, (202) 395–6880
Date: October 27, 1988.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Fifty-five or Over Housing Requirement

Office: Fair Housing and Equal Opportunity
Description of the Need for the Information and Its Proposed Use: The information collection is necessary to assist HUD in determining whether newly constructed housing facilities qualify for the "55 or over" housing exemption. In order to qualify for the "55 or over" exemption, one of the requirements a housing facility must satisfy is the requirement to publish and adhere to policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.
Form Number: None
Respondents: Businesses or Other For-Profit
Frequency of Submission: On Occasion
Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application for exemption	1,231		1		1		1,231

Total Estimated Burden Hours: 1,231
Status: New
Contact: Dana D. Jackson, HUD, (202) 755-5288; John Allison, OMB, (202) 395-6880
Date: October 27, 1988.

[FR Doc. 88-27147 Filed 11-22-88; 8:45 am]
BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT-50-09-4211-11 FLJJ; U-36058]

Bulldog Ridge Communication Site Environmental Assesment; Comment Period

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Comment period.

SUMMARY: The Bulldog Ridge Communication Site Environmental Assessment (EA) is available for comment for 30 days from publication in the Federal Register. The proposed site is on an existing communication site that has been "cherry-stemmed" within the Mt. Pennell Wilderness Study Area. For further information contact Roy Edmonds at (810) 896-8221. Copies of the EA are available at the Richfield District Office, 150 East 900 North, Richfield, Utah 84701.

Dated: November 15, 1988.

Jerry W. Goodman,
District Manager.

[FR Doc. 88-27092 Filed 11-22-88; 8:45 am]
BILLING CODE 4310-DQ-M

[AZ-920-07-4212-13; A-22844-A]

Arizona; Exchange of Federal and Private Mineral Estate

November 14, 1988.

ACTION: Notice of mineral exchange.

SUMMARY: This was an exchange of private and Federal mineral estates. The United States received title to the mineral estate in 67,233.23 acres of land in Apache County that is held in trust by the United States for the Navajo Tribe as part of the Navajo Reservation. This exchange united ownership of the surface and mineral estates within the boundaries of the Navajo Indian Reservation. Santa Fe Pacific Railroad Company received title to the mineral estate in 67,178.61 acres of land in Apache, Navajo and Coconino Counties.

FOR FURTHER INFORMATION CONTACT: Marsha Luke, BLM Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011, (602) 241-5534.

SUPPLEMENTARY INFORMATION: The United States conveyed the mineral estate in the following described land to Santa Fe Pacific Railroad Company, under Section 206 of the Act of October 21, 1976 (43 U.S.C. 1716):

Gila and Salt River Meridian

T. 9 N., R. 27 E.
Sec. 3, lots 1 to 4, incl., S½N½;
Sec. 14, all;
Sec. 23, NE¼, NE¼NW¼, S½NW¼, SW¼, N½SE¼;
Sec. 24, S½,
Sec. 25, N½NW¼, SE¼;
Sec. 26, NE¼, N½SE¼.
T. 9 N., R. 28 E.
Sec. 30, lots 3 and 4, E½SW¼, NE¼SE¼, W½SE¼;
Sec. 31, lots 1 and 2, NE¼NW¼.
T. 9 N., R. 30 E.,
Sec. 26, SE¼;
Sec. 34, N½, SE¼;
Sec. 35, all.
T. 10 N., R. 25 E.,
Sec. 3, lots 1 to 4, incl., S½N½, S½;
Sec. 10, NW¼NE¼, N½NW¼;
Sec. 22, NE¼SW¼, N½SE¼;
Sec. 23, NE¼, S½;
Sec. 25, W½;
Sec. 26, N½NE¼, SW¼NE¾, S½NW¼, SW¼;
Sec. 27, S½NE¼, SE¼.
T. 10 N., R. 26 E.,
Sec. 22, S½,
Sec. 23, NE¼NE¼, S½NE¼, N½SW¼, SE¼;
Sec. 24, NW¼, NW¼SW¼;
Sec. 25, SW¼NE¼, SE¼NW¼, NE¼ SW¼, NW¼SE¼, S½S½;
Sec. 26, W½NE¼, S½NW¼, W½W¼, SE¼SW¼, S½SE¼;
Sec. 27, W½NE¼, N½NW¼, S½;
Sec. 34, E½NE¼, NE¼SE¼;
Sec. 35, NE¼NW¼, S½NW¼, N½SW¼.
T. 10 N., R. 28 E.,
Sec. 14, E½E½, NE¼SW¼, W½SE¼.
T. 10 N., R. 30 E.,
Sec. 26, E½SE¼;
Sec. 27, S½SW¼, SW¼SE¼;
Sec. 28, SE¼SE¼;
Sec. 33, E½NE¼, NE¼SE¼;
Sec. 34, NW¼NE¼, SE¼NE¼, W½, NE¼ SE¼;
Sec. 35, NE¼NE¼, S½N½, N½SW¼, NW¼SE¼.
T. 10 N., R. 31 E.,
Sec. 6, lots 1 to 4, incl.
T. 11 N., R. 22 E.,
Sec. 4, lots 1 to 3, incl., S½NE¼.
T. 11 N., R. 25 E.,
Sec. 10, all.
T. 11 N., R. 27 E.,
Sec. 22, SE¼SE¼;
Sec. 23, SE¼SE¼;
Sec. 25, N½SE¼;
Sec. 26, N½N½, SW¼NE¼.
T. 11 N., R. 28 E.,
Sec. 3, lots 3 and 4, S½NW¼, SW¼, W½ SE¼;
Sec. 4, E½SE¼;
Sec. 8, all;
Sec. 23, E½SE¼;
Sec. 25, W½E½, E½W½, W½NW¼, SW¼SW¼, SE¼SE¼;
Sec. 26, E½NE¼;
Sec. 30, lot 4, SE¼SW¼, SW¼SE¼;
Sec. 31, lot 1, NW¼NE¼, NE¼NW¼.
T. 11 N., R. 29 E.,
Sec. 4, SW¼SW¼;
Sec. 5, lot 2, S½NE¼, SE¼.
T. 11 N., R. 30 E.,
Sec. 15, N½.
T. 11 N., R. 31 E.,
Sec. 27, lots 2 to 4, incl., SW¼NE¼, SE¼ NW¼;
Sec. 31, lots 3 and 4, E½SW¼, SE¼;
Sec. 34, lots 1 to 4, incl., W½E½, E½W½.
T. 12 N., R. 21 E.,
Sec. 8, E½;
Sec. 14, all;
Sec. 22, all.
T. 12 N., R. 22 E.,
Sec. 20, W½W½, SE¼SW¼, S½SE¼;
Sec. 28, E½E½.
T. 12 N., R. 24 E.,
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼ NW¼, E½SW¼, SE¼;
Sec. 24, N½N½, SE¼NW¼;
T. 12 N., R. 25 E.,
Sec. 18, lots 1 to 4, incl., E½;
Sec. 28, SE¼.
T. 12 N., R. 26 E.,
Sec. 20, all;
Sec. 28, S½.
T. 12 N., R. 27 E.,
Sec. 18, SE¼.
T. 12 N., R. 28 E.,
Sec. 10, SE¼NW¼, W½W½, E½SW¼, SW¼SE¼.
T. 12 N., R. 29 E.,
Sec. 20, E½NE¼, SW¼NE¼, SE¼NW¼, SW¼SW¼, NE¼SE¼, W½SE¼.
T. 12 N., R. 30 E.,
Sec. 1, SE¼;
Sec. 12, NE¼, S½;
Sec. 26, S½NW¼, N½SW¼, SE¼;
Sec. 27, NE¼;
Sec. 35, NE¼.
T. 12, N., R. 31 E.,
Sec. 6, lots 10 and 11;
Sec. 7, NE¼, SE¼SW¼, N½SE¼, SW¼ SE¼.
T. 13 N., R. 18 E.,
Sec. 6, lots 1, 2, 6 and 7, S½NE¼; E½ SW¼, SE¼;
Sec. 12, W½E½, W½.
T. 13 N., R. 19 E.,
Sec. 18, lots 1 to 4, incl., E½, E½W½.
T. 13 N., R. 20 E.,
Sec. 8, all.
T. 13 N., R. 21 E.,
Sec. 18, lots 1 to 4, incl., E½, E½W½;
Sec. 22, SW¼NE¼, W½, NW¼SE¼, S½ SE¼.
T. 13 N., R. 25 E.,
Sec. 4, SW¼;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼ NW¼, E½SW¼, N½SE¼;
Sec. 8, all;
Sec. 10, all;
Sec. 24, all.
T. 13 N., R., 26 E.,
Sec. 28, E½NE¼, SE¼.
T. 13 N., R. 29 E.,
Sec. 6, lots 1, 2 and lots 4 to 7, incl., S½ NE¼, SE¼NW¼, E½SW¼, SE¼;
T. 13 N., R. 30 E.,

Sec. 28, S½NE¼, S½SW¼, SE¼.
T. 13 N., R. 31 E.,
Sec. 19, lots 3 and 4 E½W¼, SE¼;
Sec. 21, S½SE¼;
Sec. 22, lot 4;
Sec. 27, lots 1 to 3, incl.;
Sec. 28, N½, N½S½
T. 14 N., R. 17 E.,
Sec. 20, NW¼, S½;
Sec. 24, NW¼, S½;
Sec. 28, N½, SE¼.
T. 14 N., R. 18 E.,
Sec. 10, S½
Sec. 20, all;
Sec. 28, W½
T. 14 N., R. 24 E.,
Sec. 6, lots 3 to 6, incl., SE¼NW¼, E½SW¼, SE¼;
Sec. 14, all;
Sec. 34, all.
T. 14 N., R. 26 E.,
Sec. 28, all.
T. 14 N., R. 27 E.,
Sec. 12, all.
T. 14 N., R. 28 E.,
Sec. 20, all.
T. 15 N., R. 14 E.,
Sec. 4, lots 1, 3 and 4, SE¼NE¼, S½NW¼, W½SW¼;
Sec. 8, E½;
Sec. 10, all;
Sec. 26, N½.
T. 15 N., R. 15 E.,
Sec. 12, W½;
Sec. 14, W½.
Sec. 18, lots 1 to 4, incl., SE¼NE¼, W½ E½, E½SE¼;
Sec. 20, all;
Sec. 30, lot 1.
T. 15 N., R. 16 E.,
Sec. 6, lots 5 to 7, incl., and lots 9 to 14, incl. E½SW¼, SE¼.
T. 15 N., R. 17 E.,
Sec. 34, all.
T. 16 N., R. 13 E.,
Sec. 34, all.
T. 16 N., R. 15 E.,
Sec. 18, lots 2 to 4, incl., E½, E½W½.
T. 16 N., R. 25 E.,
Sec. 20, all.
T. 16 N., R. 29 E.,
Sec. 26, N½, SW¼.
T. 16 N., R. 30 E.,
Sec. 14, all;
Sec. 30, lots 1 to 4, incl., E½W½.
T. 17 N., R. 12 E.,
Sec. 18, SE¼SE¼;
Sec. 20, all;
Sec. 28, all;
Sec. 30, lots 1 to 4, incl., E½, E½W½;
Sec. 34, lots 1 to 7, incl., and lots 11 and 12, N½.
T. 17 N., R. 19 E.,
Sec. 12, W½;
Sec. 14, all;
Sec. 18, lots 1 to 4, incl., W½E½, E½W½.
T. 17 N., R. 20 E.,
Sec. 6, lots 6 and 7, E½SW¼, SE¼;
Sec. 8, all.
T. 17 N., R. 21 E.,
Sec. 10, NE¼, S½;
Sec. 14, NW¼.
T. 17 N., R. 23 E.,
Sec. 10, all;
Sec. 30, E½.
T. 17 N., R. 29 E.,
Sec. 20, SW¼NE¼, SE¼SW¼, W½SE¼.
T. 17 N., R. 31 E.,
Sec. 20, N½, N½S½;
Sec. 30, lot 1.
T. 18 N., R. 12 E.,
Sec. 14, all.
T. 18 N., R. 16 E.,
Sec. 10, E½, E½W½;
Sec. 12, all.
T. 18 N., R. 20 E.,
Sec. 12, E½ NW¼, SW¼NW¼, NW¼ SW¼.
T. 18 N., R. 21 E.,
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼NW¼, E½SW¼, SE¼;
Sec. 14, all;
Sec. 18, lots 1 to 4, incl., E½, E½W½;
Sec. 22, N½, NW¼SW¼;
Sec. 26, N½, SW¼;
Sec. 28, NW¼NE¼, W½.
T. 18 N., R. 23 E.,
Sec. 10, N½N½, SW¼NE¼, S½NW¼, NW¼SW¼.
T. 19 N., R. 11 E.,
Sec. 10, all;
Sec. 12, E½, E½W½;
Sec. 18, lots 2 to 4, incl., W½E½, E½W½
Sec. 20, N½, N½S½, SW¼SW¼;
Sec. 22, all;
Sec. 24, all;
Sec. 30, lots 3 and 4, E½, E½W½;
Sec. 34, lots 1 to 4, incl., N½, N½S½.
T. 19 N., R. 12 E.,
Sec. 18 lots 1 to 4, incl., E½, E½W½.
T. 19 N., R. 16 E.,
Sec. 4 lot 1, SE¼NE¼, SE¼;
Sec. 8, NW¼, W½SE¼.
T. 19 N., R. 20 E.,
Sec. 10, SW¼;
Sec. 30, NE¼.
T. 19 N., R. 21 E.,
Sec. 20, N½, SE¼;
Sec. 22, all;
Sec. 28, all;
Sec. 30, lots 1 and 2, E½NW¼.
T. 19 N., R. 25 E.,
Sec. 30, lots 1 to 4, incl., E½, E½NW¼, SE¼W¼.
T. 20 N., R. 11 E.,
Sec. 20, all.
T. 20 N., R. 16 E.,
Sec. 28, all.
T. 23 N., R. 10 E.,
Sec. 24, W½NE¼, E½NE¼.

Comprising 67,178.61 acres in Apache, Navajo and Coconino Counties.

In exchange the United States received title to the mineral estate from Sante Fe Pacific Railroad Company in the following described land:

Gila and Salt River Meridian

T. 19 N., R. 27 E.,
Sec. 7, lots 1 to 4, incl., E½W½, E½;
Sec. 10, all;
Sec. 11, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 17, all;
Sec. 18, lots 1 to 4, incl., E½W½, E½;
Sec. 19, lots 1 to 4, incl. E½W½, E½;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, NE¼, W½;
Sec. 26 all;
Sec. 27, all.
T. 19 N., R. 31 E.,
Sec. 17, all;
Sec. 20, all;
Sec. 21, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, E½;
Sec. 31, E½;
Sec. 33, all.
T. 20 N., R. 27 E.,
Sec. 19, lots 1 to 4, incl., E½W½, E½.
T. 20 N., R. 28 E.,
Sec. 4, lots 1 to 4, incl., S½N½, S½.
T. 20 N., R. 29 E.,
Sec. 1, lots 1 to 4, incl., S½N½, S½;
Sec. 3, lots 1 to 4, incl., S½N½, S½;
Sec. 4, lots 1 to 4, incl., S½N½, S½;
Sec. 5, lots 1 to 4, incl., S½N½, S½;
Sec. 6, lots 1 to 7, incl., S½NE¼, SE¼ NW¼, E½SW¼, SE¼;
Sec. 7, lots 1 to 4, incl., E½W½, E½;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;
Sec. 15, all;
Sec. 17, all;
Sec. 18, lots 1 to 4, incl., E½W½, E½;
Sec. 19, lots 1 to 4, incl., E½W½, E½;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 31, lots 1 to 4, incl., E½W½, E½;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all.
T. 20 N., R. 30 E.,
Sec. 1, lots 1 to 4, incl., S½N½, S½;
Sec. 3, lots 1 to 4, incl., S½N½, S½;
Sec. 4, lots 1 to 4, incl., S½N½, S½;
Sec. 5, lots 1 to 4, incl., S½N½, S½;
Sec. 6, lots 1 to 7, incl., E½SW¼, S½NE¼, SE¼NW¼, SE¼;
Sec. 7, lots 1 to 4, incl., E½W½, E½;
Sec. 8, all;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, all;
Sec. 13, all;
Sec. 14, all;

Sec. 15, all;
Sec. 17, all;
Sec. 18, lots 1 to 4, incl., E½W½, E½;
Sec. 19, lots 1 to 4, incl., E½W½, E½;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, all;
Sec. 29, all;
Sec. 30, lots 1 to 4, incl., E½W½, E½;
Sec. 31, lots 1 to 4, incl., E½W½, E½;
Sec. 33, all;
Sec. 34, all;
Sec. 35, all.
T. 20 N., R. 31 E.,
Sec. 3, lots 1 to 4, incl.;
Sec. 4, lots 1 to 4, incl., S½N½, S½;
Sec. 5, lots 1 to 4, incl., S½N½, S½;
Sec. 6, lots 1 to 7, incl., E½SW¼, SE¼ NW¼, S½NE¼, SE¼;
Sec. 7, lots 1 to 4, incl., E½W½, E½;
Sec. 8, all;
Sec. 9, all;
Sec. 10, lots 1 to 4, incl.;
Sec. 15, lots 1 to 4, incl.;
Sec. 17, all;
Sec. 18, lots 1 to 4, incl., E½W½, E½;
Sec. 19, lots 1 to 4, incl., E½W½, E½;
Sec. 20, all;
Sec. 21, all;
Sec. 22, lots 1 to 4, incl.;
Sec. 27, lots 1 to 4, incl.;
Sec. 28, E½;
Sec. 29, all;
Sec. 31, lots 1 to 4, incl., E½,W½, E½;
Sec. 33, all;
Sec. 34, lots 1 to 4, incl.

The area described comprises 67,233.23 acres of land held in trust by the United States for the Navajo Tribe as a part of the Navajo Reservation.

The purpose of this notice is to inform the public and interested governmental officials of the exchange.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 88-27093 Filed 11-22-88; 8:45 am]

BILLING CODE 4310-32-M

National Park Service

Concession Contract Negotiations; Barker-Ewing Scenic Tours, Inc.

AGENCY: National Park Service, Interior.

ACTION: Public notice.

SUMMARY: Public notice is hereby given that the National Park Service proposes to negotiate a concession permit with Barker-Ewing Scenic Tours, Inc. authorizing it to continue to provide guided scenic interpretive river trips for the public at Grand Teton National Park, Wyoming for a period of five (5) years from January 1, 1988, through December 31, 1992.

EFFECTIVE DATE: February 21, 1989.

ADDRESS: Interested parties should contact the Regional Director, Rocky Mountain Region, P.O. Box 25287, Denver, Colorado 80225-0287, for information as to the requirements of the proposed permit.

SUPPLEMENTARY INFORMATION: This permit renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expired by limitation of time on December 31, 1987 and therefore pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), is entitled to be given preference in the renewal of the permit and in the negotiation of a new permit as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the ninetieth (90th) day following publication of this notice to be considered and evaluated.

Homer L. Rouse,

Acting Regional Director, Rocky Mountain Region.

Date: October 20, 1988.

[FR Doc. 88-27040 Filed 11-22-88; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Senior Executive Service; Performance Review Board Membership

November 1, 1988.

On or about November 1, 1988 the following persons will be added as members of the Performance Review Board: Irvin D. Coker, John F. Owens, Thomas H. Reese III.

Date: November 8, 1988.

Jan Barrow,

Executive Secretary, Performance Review Board.

[FR Doc. 88-27151 Filed 11-22-88; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-284]

Certain Electric Power Tools, Battery Cartridges and Battery Chargers; Commission Decision Not To Review an Initial Determination Amending the Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 6) issued by the presiding administrative law judge (ADJ) amending the notice of investigation in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jack M. Simmons, III, Esq. Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1098. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On October 18, 1988, the presiding ALJ issued an ID amending the notice of investigation to reflect amendments to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) effected by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100-418, 102 Stat. 1107). The notice of investigation was amended (1) to delete all reference to the former requirement that an industry in the United States be efficiently and economically operated; (2) with respect to the registered trademark-based part on the investigation, to delete the reference to the former requirement that complainant be required to prove that the effect or tendency of the alleged unfair acts is to destroy or substantially injure an industry in the United States; and (3) with respect to the nonregistered trademark part of the investigation, to replace the phrase "effect or tendency" with the phrase "threat or effect." No petitions for review or agency comments regarding the ID were received.

Copies of the ID and all nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202-252-1108.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: November 17, 1988.

[FR Doc. 88-27132 Filed 11-22-88; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-284]

Certain Electric Power Tools, Battery Cartridges and Battery Chargers; Amendment of Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the notice of investigation in the above-captioned investigation has been amended in the manner described below.

FOR FURTHER INFORMATION CONTACT: Jack M. Simmons, III, Esq. Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, 202-252-1098. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810.

SUPPLEMENTARY INFORMATION: On October 18, 1988, the presiding administrative law judge issued an initial determination (ID) amending the notice of investigation and directing the Commission Secretary, in the absence of Commission review of the ID, to publish the amendment to the notice of investigation in the **Federal Register.** The Commission has determined not to review the ID. Accordingly, paragraph (1) of page 2 of the notice of investigation has been amended to read as follows:

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(C) of section 337 in the unlawful importation into the United States, the sale for importation, or the sale within the United States after importation, of certain electric power tools, battery cartridges, and battery chargers by reason of alleged infringement of Registered Trademark 1,204,296, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1108.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: November 17, 1988.

[FR Doc. 88-27133 Filed 11-22-88; 8:45 am]

BILLING CODE 2020-02-M

[Investigation No. 731-TA-424 (Preliminary)]

Martial Arts Uniforms From Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary antidumping investigation No. 731-TA-424 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Taiwan of martial arts uniforms,[1] provided for in items 381.05, 381.08, 381.31, 381.32, 381.33, 381.56, 381.62, 381.63, 381.65, 381.95, 381.97, 381.98, 384.05, 384.07, 384.09, 384.23, 384.24, 384.26, 384.46, 384.77, 384.50, 384.52, 384.90, 384.91, 384.92, and 384.94 of the Tariff Schedules of the United States (subheadings 6203.22.10, 6203.23.00, 6203.29.20, 6203.42.40, 6203.43.40, 6203.49.20, 6204.22.10, 6204.23.00, 6204.23.00, 6204.29.20, 6204.62.40, 6204.63.35, 6204.69.25, 6209.20.30, 6209.20.50, 6209.30.20, 6209.30.30, 6209.90.20, 6209.90.30, and 6217.10.00 of the Harmonized Tariff Schedule of the United States), that are alleged to be sold in the United States at less than fair value. As provided in section 733(a), the Commission must complete preliminary antidumping investigations in 45 days, or in this case by December 30, 1988.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and B (19 CFR Part 207), and Part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: November 15, 1988.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202-252-1185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on November 15, 1988, by Century Martial Art Supply, Inc., Midwest City, OK.

Participation in the investigation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register.** Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.—Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3, as amended), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited disclosure of business proprietary information under a protective order.—Pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a) as amended), the Secretary will make available business proprietary information gathered in this preliminary investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of

[1] For purposes of this investigation, "martial arts uniforms" refers to tops, pants, and belts, imported separately or as ensembles, for men, boys, women, girls, and infants, of cotton or of man-made fibers, whether ornamented, or not ornamented, suitable for wearing while practicing all forms of martial arts, including but not limited to Judo, Karate, Kung Fu, Tae Kwon Do, Ninja, Ninjutsu, Hakama, Tai Chi, Jujitsu, and Hapkido.

this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on December 6, 1988, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–252–1158) not later than December 2, 1988, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions.—Any person may submit to the Commission on or before December 9, 1988, a written brief containing information and arguments pertinent to the subject matter of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rule (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such subsmissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of §§ 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a)) may comment on such information in their written brief, and may also file additional written comments on such information no later than December 14, 1988. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: November 17, 1988.

[FR Doc. 88–27130 Filed 11–22–88; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–281]

Certain Recombinant Erythropoietin; Commission Decision Not To Review an Initial Determination Amending the Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 26) issued by the presiding administrative law judge (ALJ) amending the notice of investigation in the above-captioned investigation.

ADDRESS: Copies of the ID and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1108.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–252–1108. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–252–1810.

SUPPLEMENTARY INFORMATION: On October 12, 1988, the presiding ALJ issued an ID amending the notice of investigation to reflect amendments to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) effected by the Omnibus Trade and Competitiveness Act of 1988 (Pub. L. 100–418, 102 Stat. 1107). The notice of investigation was amended to delete references to the former requirements that the effect or tendency of the alleged unfair acts is to destroy or substantially injure an industry in the United States and that the industry be efficiently and economically operated.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and interim rule 210.53 (53 FR 33070, Aug. 19, 1988).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: November 16, 1988.

[FR Doc. 88–27134 Filed 11–22–88; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–297 (Preliminary) and 731–TA–422 (Preliminary)]

New Steel Rails From Canada Determinations

On the basis of the record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Canada of new steel rails,[2] provided for in items 610.20, 610.21, and 688.42 [3] of the Tariff Schedules of the United States (subheading 7302.10.10, 7302.10.50, and 8548.00.00 of the Harmonized Tariff Schedule of the United States), that are alleged to be subsidized by the Government of Canada.

The Commission also determines, pursuant to section 7339(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] For the purposes of these investigations, "new steel rails" include rails, whether of carbon, high carbon, alloy or other quality steel, including, but not limited to, standard rails, all main line sections (over 60 pounds per yard), heat-treated or head-hardened (premium) rails, transit rails, contact rails (or "third rails"), and crane rails, provided for in items 610.2010, 610.2025, 610.2100, and 688.4280 of the *Tariff Schedules of the United States Annotated* (TSUSA) (subheadings 7302.10.1020, 7302.10.1040, 7302.10.5000, and 8548.00.0000 of the *Harmonized Tariff Schedule of the United States* (HTS)).

Specifically excluded from the scope of these investigations are imports of "light rails," which are 60 pounds or less per yard. "Relay rails," which are used rails that have been taken up from a primary railroad track and are suitable to be reused as rails (such as on a secondary rail line or in a rail yard), are also excluded.

[3] The petition states that contact rails are provided for under this item number; however, according to the U.S. Customs Service, contact rails are provided for under TSUS item number 685.90 (HTS item 8536.90.00). Irrespective of where classified in the TSUS or HTS, contact rails are clearly included within the scope of these investigations.

from Canada of new steel rails that are alleged to be sold in the United States at less that fair value (LTFV).

Background

On September 26, 1988, a petition was filed with the Commission and the Department of Commerce by Bethlehem Steel Corporation, Bethlehem, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of new steel rails from Canada and by reason of LTFV imports from Canada. Accordingly effective September 26, 1988, the Commission instituted preliminary countervailing duty investigation No. 701-TA-297 (Preliminary) and preliminary antidumping investigation No. 731-TA-422 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 3, 1988, (53 FR 38795). The conference was held in Washington, DC, on October 19, 1988, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on November 10, 1988. The views of the Commission are contained in USITC Publication 2135 (November 1988), entitled "New Steel Rails from Canada: Determinations of the Commission in Investigations Nos. 701-TA-297 (Preliminary) and 731-TA-422 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission:

Kenneth R. Mason,

Secretary

Issued: November 14, 1988.

[FR Doc. 88-27136 Filed 11-22-88; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-389 (Final)]

3.5 Inch Microdisks and Media Therefor From Japan

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: November 7, 1988.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202-252-1184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION: Effective September 29, 1988, the Commission instituted the subject investigation and established a schedule for its conduct (53 FR 40972, October 19, 1988). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from December 7, 1988 to February 6, 1989 (53 FR 44933, November 7, 1988). The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than January 24, 1989; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on January 31, 1989; the prehearing staff report will be placed in the nonpublic record of January 23, 1989; the deadline for filing prehearing briefs is February 2, 1989; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on February 9, 1989; the deadline for filing posthearing briefs is February 16, 1989, and the deadline for Parties to file additional written comments on business proprietary information is February 21, 1989.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, part 207, subparts A and C (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: November 17, 1988.

[FR Doc. 88-27131 Filed 11-22-88; 8:45 am]

BILLING CODE 7020-02-M

Intent To Hold MTN Field Hearings

AGENCY: International Trade Commission.

ACTION: Notice of intent to hold field hearings in connection with the request which the Commission expects to receive from the United States Trade Representative (USTR) to provide advice on the probable economic effects on U.S. industries and consumers of liberalization of specified U.S. and foreign tariffs and nontariff measures in the Uruguay Round of Multilateral Trade Negotiations (MTN).

FOR FURTHER INFORMATION CONTACT: Aaron Chesser (202-252-1380) or Sylvia McDonough (202-252-1393), Office of Industries, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION: The Commission expects to receive from the USTR within the next few months a list of articles which may be considered for modification of U.S. import duties or nontariff measures in trade negotiations. Section 131 of the Trade Act of 1974 (19 U.S.C. 2151), as amended by section 111 of the Omnibus Trade and Competitive Act of 1988 (Pub. L. 100-418, 102 Stat. 1107), requires that the Commission furnish certain advice to the President within 6 months after receipt of such a list in connection with a proposed trade agreement. Section 131 requires that the Commission hold public hearings in the course of preparing its advice.

Upon receipt of the request from the USTR, the Commission plans to institute investigations to provide the requested advice under authority of section 131 of the Trade Act of 1974, as amended, and section 332 of the Tariff Act of 1930, as amended.

In order to prepare and submit its advice in a timely manner, the Commission will need to hold hearings and require that submissions be filed relatively early in the 6-month period of its investigations. In anticipation of receiving such a request, and in order to provide interested persons with sufficient time to prepare submissions and make arrangements to attend one of the public hearings, the Commission has adopted the following tentative schedule for the holding of public hearings and the filing of notifications to appear at these hearings:

Tentative Schedule for MTN Field Hearings by the U.S. International Trade Commission

City	Hearing date	Deadline for notification to appear at hearing
Houston, TX	Monday, Jan. 30, 1989	Noon, Jan. 19, 1989.
New Orleans, LA	Wednesday, Feb. 1, 1989	Do.
Miami, FL	Friday, Feb. 3, 1989	Do.
Atlanta, GA	Monday, Feb. 6, 1989	Do.
Los Angeles, CA	Monday, Feb. 13, 1989	Noon, Jan 24, 1989.
San Francisco, CA	Wednesday, Feb. 15, 1989	Do.
Portland, OR	Friday, Feb. 17, 1989	Do.
Denver, CO	Friday, Feb. 24, 1989	Do.
Chicago, IL	Monday, Feb. 27, 1989	Noon, Feb. 6, 1989.
Minneapolis, MN	Wednesday, Mar. 1, 1989	Do.
Kansas City, MO	Thursday, Mar. 2, 1989	Do.
New York, NY	Monday, Mar. 13, 1989	Noon, Feb. 20, 1989.
Boston, MA	Wednesday, Mar. 15, 1989	Do.
Pittsburgh, PA	Friday, Mar. 17, 1989	Do.
Washington, DC	Monday, Apr. 3, 1989; Tuesday, Apr. 4, 1989	Noon, Mar. 13, 1989.

Upon receipt of the list, the Commission will publish notice of the institution of investigations, the actual hearing sites and date of each hearing, and deadlines for filing written notification to appear at a hearing; due dates for filing written briefs in lieu of, or in addition to, an appearance at a hearing will also be supplied. In addition, all other pertinent information concerning the investigations and hearings will be provided.

Persons wishing to appear at a hearing should be aware that it is sufficient for them to appear at only one of the hearings. They need not appear at additional hearings to restate their views. In the interest of time conservation at the hearings, it is anticipated that witnesses will be requested to condense their presentations to summaries only. Further, if appropriate, the formation of witness panels will be encouraged to conserve time. A transcript will be made of all hearings.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued November 15, 1988.

[FR Doc. 88-27135 Filed 11-22-88; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31353]

Iowa Traction Railroad Co.—Operation Exemption

Iowa Traction Railroad Company (Traction) has filed a notice of exemption to lease and operate certain railroad property owned by Hermitage Homes, Inc. (Hermitage). Traction will lease and operate a 3-mile portion of the rail line from milepost 152.5 to milepost 155.5 in Mason City, IA. The line was previously abandoned by Chicago and North Western Transportation Company in Docket No. AB-1 (Sub-No. 205X), and was purchased by Hermitage (a non-rail carrier). Hermitage leased the line segment to Traction on August 6, 1988. Traction's operation of the line segment is expected to be consummated on the effective date of the exemption.

Any comments must be filed with the Commission and served on Thomas F. McFarland, Jr., Belnap, Spencer, McFarland, Emrich & Herman, 20 North Wacker Drive, Suite 3710, Chicago, IL 60606.

Traction must preserve intact all sites and structures more than 50 years old until compliance with the requirements of section 106 of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. *See Class Exemption—Acq. & Oper. of R. Lines under 49 U.S.C. 10901,* 4 I.C.C.2d 305 (1988).

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 2, 1988.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 88-26962 Filed 11-22-88; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Water Act

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on November 14, 1988, a proposed Consent Decree in *United States* v. *ITT Rayonier, Inc.,* Civil Action No. 87-345-CIV-J-12 was lodged with the United States District Court for the Middle District of Florida. The complaint, as amended, sought the imposition of injunctive relief and civil penalties under the Clean Water Act against defendant for its unpermitted discharges of pollutants, and for its discharges of wastewater in violation of the effluent limits contained in its National Pollutants Discharge Elimination System permit issued under that Act. The discharges in issue entered the Amelia River or one of its tributaries from defendant's plant in Fernandina Beach, Florida.

The Consent Decree requires defendant to pay a civil penalty totalling $40,000. The Decree also requires defendant to implement certain remedial measures, including installation of a diking containment system around its plant, to prevent future unpermitted discharges and other violations of its NPDES permit.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments concerning the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *ITT Rayonier, Inc.,* D.J. Ref. 90-5-1-1-2786.

The proposed Consent Decree may be examined at any of the following offices: (1) The United States Attorney for the Middle District of Florida, 409 Post Office Building, 311 West Monroe Street, Jacksonville, Florida; (2) the U.S. Environmental Protection Agency, Region 4, 345 Courtland Street, Atlanta, Georgia; or (3) the Environmental Enforcement Section, Land & Natural Resources Division, U.S. Department of

Justice, 10th & Pennsylvania Avenue NW., Washington, DC. Copies of the proposed Decree may be obtained by mail from the Environmental Enforcement Section of the Department of Justice, Land and Natural Resources Division, P.O. Box 7611, Benjamin Franklin Station, Washington, DC 20044–7611, or in person at the U.S. Department of Justice Building, Room 1521, 10th Street and Pennsylvania Avenue NW., Washington, DC 20530.

Roger J. Marzulla,

Assistant Attorney General, Land & Natural Resources Division.

[FR Doc. 88–27094 Filed 11–22–88; 8:45 am]

BILLING CODE 4410–01–M

Information Collection(s) Under Review

November 18, 1988

The Office of Management and Budget (OMB) has been sent for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published. Entries are grouped into submission categories. Each entry contains the following information: (1) The title of the form or collection; (2) the agency form number, if any and the applicable component of the Department sponsoring the collection; (3) how often the form must be filled out or the information is collected; (4) who will be asked or required to respond, as well as a brief abstract; (5) an estimate of the total number of respondents and the amount of estimated time it takes each respondent to respond; (6) an estimate of the total public burden hours associated with the collection; and, (7) an indication as to whether section 3504(h) of Pub. L. 96–511 applies. Comments and/or questions regarding the item(s) contained in this notice, especially regarding the estimated response time, should be directed to the OMB reviewer, Mr. Sam Fairchild, on (202) 395–7340 AND to the Department of Justice's Clearance Officer. If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should so notify the OMB reviewer AND the Department of Justice's Clearance Officer of your intent as soon as possible. The Department of Justice's Clearance Officer is Mr. Larry E. Miesse who can be reached on (202) 633–4312.

Reinstatement of a Previously Approved Collection for Which Approval Has Expired

(1) Change of Address Notice.
(2) I–697, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This form solicits information needed to update an applicant's address in the legalization automated database. The country and date of birth information is needed to identify specific applicants who have similar names and/or do not provide an "A" number or provide the wrong number.
(5) 50,000 respondents at .083 hours each.
(6) 4,150 estimated annual public burden hours.
(7) Not applicable under section 3504(h).

Extension of the Expiration Date of a Currently Approved Collection Without Any Change in the Substance or in the Method of Collection

(1) Declaration of Intending Citizen.
(2) I–772, Immigration and Naturalization Service.
(3) On Occasion.
(4) Individuals or households. This form is a prerequisite for certain specified groups of aliens to assert a claim of discrimination based on citizenship status.
(5) 2,500,000 annual respondents at .033 hours each.
(6) 82,500 estimated annual burden hours.
(7) Not applicable under section 3504(h).

(1) Report of Theft or Loss of Controlled Substances.
(2) DEA–106, Drug Enforcement Administration.
(3) On occasion.
(4) Individuals or households, businesses or other for-profit, Federal agencies or employees. 21 CFR 1301.74(c) and 1301.76(b) required DEA registrants to complete and submit a DEA–106 upon discovery of a theft or loss of controlled substances to allow for accurate accountability, monitor substances diverted into illicit markets and develop leads for criminal investigations.
(5) 8,393 respondents at .5 hours each.
(6) 4,199 estimated annual burden hours.
(7) Not applicable under section 3504(h).

(1) Document Verification Request.
(2) G–845, Immigration and Naturalization Service.
(3) On occasion.
(4) Individuals or households. This form is an integral part of the Systematic Alien Verification for Entitlement (SAVE) Program, and provides direct access to the index.
(5) 200,000 respondents at .083 hours each.
(6) 16,600 estimated annual burden hours.
(7) Not applicable under section 3504(h).

(1) Law Enforcement Officers Killed.
(2) DO 76, 76a, 76b. Federal Bureau of Investigation.
(3) On occasion.
(4) State or local governments. Collects data regarding law enforcement officers, killed in the line of duty. Data are used to formulate training needs and are published annually.
(5) 180 respondents at .46 hours each.
(6) 83 estimated annual burden hours.
(7) Not applicable under section 3504(h).

(1) Law Enforcement Officers Killed or Assaulted.
(2) DO–71. Federal Bureau of Investigation.
(3) On occasion.
(4) State or local governments. Collects data regarding assaults on police officers; summary statistics are published annually.
(5) 3,324 annual respondents at .2 hours each.
(6) 664 estimated annual burden hours.
(7) Not applicable under section 3504(h).

(1) Arson Incident Report.
(2) DO–84. Federal Bureau of Investigation.
(3) On occasion.
(4) State or local governments. Collects arson data from fire service agencies to be published annually.
(5) 102,000 annual respondents at .25 hours each.
(6) 25,500 estimated annual burden hours.
(7) Not applicable under section 3504(h).

(1) Application of Temporary Replacement Card.
(2) I–695, Immigration and Naturalization Service.
(3) One time only.
(4) Individuals or households. Used for the application for replacement of the I–688, Temporary Resident Card.
(5) 250,000 annual respondents at .166 hours each.
(6) 41,500 estimated annual burden hours.
(7) Not applicable under section 3504(h).

(1) Medical Examination of Aliens Seeking Adjustment of Status.
(2) I-693, Immigration and Naturalization Service.
(3) One time only.
(4) Individuals or households. Pub. L. 99-603 requires specific language regarding the medical examination required of applicants who apply for temporary and permanent residence status.
(5) 1,500,000 annual respondents at .5 hours each.
(6) 750,000 estimated annual burden hours.
(7) Not applicable under section 3504(h).

Revision of a Currently Approved Collection

(1) Notice of Appeal.
(2) I-694, Immigration and Naturalization Service.
(3) One time only.
(4) Individuals or households. Used in considering appeals of denials of temporary and permanent residence status by legalization applicants and special agricultural workers.
(5) 20,000 annual respondents at .5 hours each.
(6) 10,000 estimated annual burden hours.
(7) Not applicable under section 3504(h).

Larry E. Miesse,

Department Clearance Officer, Department of Justice.

[FR Doc. 88-27042 Filed 11-22-88; 8:45 am]
BILLING CODE 4410-10-M

Office of Juvenile Justice and Delinquency Prevention

Testing Juvenile Detainees for Illegal Drug Use

AGENCY: Office of Juvenile Justice and Delinquency Prevention, Justice.

ACTION: Notice of extension of deadline date.

Notice of amendment to text of program summary.

SUMMARY: The Office of Juvenile Justice and Delinquency Prevention (OJJDP) announces the extension of the deadline date for the developmental initiative entitled "Testing Juvenile Detainees for Illegal Drug Use", **Federal Register**, Vol. 53, No. 213, Thursday, November 3, 1988 from November 30, 1988 to December 16, 1988.

This notice also announces a change in the text located on page 44570 of the **Federal Register**, Vol. 53, No. 213. The Summary on that page stated:

"The Office of Juvenile Justice and Delinquency Prevention (OJJDP) pursuant to section 224(a)(5) and section 243(2) of the Juvenile Justice and Delinquency Prevention Act, as amended * * *"

This sentence has been amended and now reads as follows:

"The Office of Juvenile Justice and Delinquency Prevention (OJJDP) pursuant to section 224(a)(5), section 224(b)(1) and section 243(2) of the Juvenile Justice and Delinquency Prevention Act, as amended * * *"

FOR FURTHER INFORMATION CONTACT: Douglas W. Thomas, Research and Development Division, (202) 724-5929, or Frank Smith, Special Emphasis Division, (202) 724-5914.

Date: November 18, 1988.

Diane Munson,

Acting Administrator, OJJDP.

[FR Doc. 88-27155 Filed 11-22-88; 8:45 am]
BILLING CODE 4410-18-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (88-97)]

Fiscal Year 1988 Report of Closed Meeting Activities of Advisory Committees

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of reports.

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92-463, the NASA advisory committees that held closed or partially closed meetings in 1988, consistent with the policy of 5 U.S.C. 552b(c), have prepared reports on activities of these meetings. Copies of the reports have been filed and are available for public inspection at the Library of Congress, Federal Advisory Committee Desk, Washington, DC 20540; and the National Aeronautics and Space Administration, Headquarters Information Center, Washington, DC 20546. The names of the committees are: NASA Advisory Council (NAC), NAC Aeronautics Advisory Committee, NAC History Advisory Committee, NAC Life Sciences Advisory Committee, NAC Space Applications Advisory Committee, NAC Space and Earth Science Advisory Committee, NAC Space Science and Applications Advisory Committee and the NASA Wage Committee.

FOR FURTHER INFORMATION CONTACT: Kathryn Newman, Code NPN, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-2880).

Ann Bradley,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 88-27041 Filed 11-22-88; 8:45 am]
BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Pub. L. 95-541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC, 20550.

SUPPLEMENTARY INFORMATION: On October 14, 1988, the National Science Foundation (NSF) published a notice in the **Federal Register** of permit applications received from: G.F. Mobley and B.D. Hodgson, N. Crawford, S. Klipper, P. Kirkpatrick, D. Smith, B. Goodman, K. Davidson, W. Baker and G.R. Harbison. In response to the Foundation's invitation to interested parties to submit written data, comments, or views about these permit applications, the Environmental Defense Fund recommended that the permit applications of Messrs. Mobley and Hodgson, Crawford, Klipper, Smith, Goodman, Davidson, and Baker to enter Sites of Special Scientific Interest (SSSI's) be strictly conditioned on compliance with management plans for these areas and that the permit applications of these individuals to enter Specially Protected Areas (SPA's) be denied. In addition, the Environmental Defense Fund suggested that NSF's authority to issue permits to these individuals to "take" Antarctic mammals and birds is questionable.

Messrs. Mobley and Hodgson are employed by the National Geographic Magazine; Messrs. Crawford and Klipper are self-employed photographers invited by the National Science Foundation to document the U.S. Antarctic Program for the public. Mr. Smith is employed by Sky and Telescope Magazine. Mr. Goodman is

employed by Science World Magazine. Mr. Davidson is employed by the San Francisco Examiner. Mr. Baker is employed by WNET–TV in New York.

Each of these individuals will be in Antarctica in support of NSF's efforts to make available to the public objective information on the U.S. Antarctic Program. These individuals will observe NSF-sponsored research projects. While observing such research, they will be accompanied by NSF employees or by the scientists conducting the research.

NSF recognizes that most Americans cannot visit Antarctica. Therefore, it makes special efforts each Antarctic summer to assure access by a small number of scholars in the humanitaries—artists, photographers, writers—and by representatives of the communications media.

These visitors focus on U.S. Antarctic Program activities and are given access to as much of the continent as possible within the constraint of available logistics. The visitors are special communicators, unconstrained by the demands of a scientific research project or of recurring support tasks. They use their identified talents to observe, report, and interpret the realities of Antarctica in a more comprehensive and generalized manner than is possible in scientific research projects. They are, in effect, the disinterested (neutral) observers of a complex, continuing interaction between man and environment.

The Foundation is convinced that access to special areas and close proximity to antarctic wildlife are particularly important in these visits. Action by the Antarctic Treaty nations to limit access to these special areas brings with it a particular responsibility to assure access by a few trained communicators who have no vested personal or organizational interest. These individuals can be expected to address the values of society as they prepare their communications to it. Such objective observations should be welcome by the Environmental Defense Fund.

The issuance of permits to individual members of the news media to enter SSSI's or SPA's would be for the purpose of allowing these media personnel to observe scientists conducting research. Members of the news media will be accompanied at all times while in SPA's or SSSI's by scientists who already hold permits to enter SPA's or SSSI's. Under §§ 670.28(a) and 670.32 of the Antarctic Conservation Act regulations, NSF may issue a permit authorizing entry to protected areas if there is a compelling scientific purpose for such entry which cannot be served elsewhere. NSF has determined that reporting to the public on how science is conducted in a remote area of the world which most members of the public will never visit is a compelling scientific purpose.

Under § 670.15 of the Antarctic Conservation Act regulations, NSF may also issue a permit to "take" Antarctic mammals or birds for educational purposes. To "take" under the Antarctic Conservation Act means to remove, harass, molest, harm, pursue, hurt, shoot, wound, kill, trap, capture, restrain, or tag any native mammal or bird, or to attempt to engage in such conduct. NSF will not grant to individuals who are members of the news media the authority to handle or deliberately disturb Antarctic mammals or birds. Permits will be issued to increase the awareness of these individuals to their responsibilities under the Antarctic Conservation Act, and to keep inadvertent disturbances, if any, to a minimum.

After carefully considering the comments received from the Environmental Defense Fund, NSF has decided to issue the requested permits. The permits were issued on November 18, 1988, subject to the compliance of individual permits holders with management plans for protected areas which they may enter, and subject to the provision that any "taking" shall be incidental and directly related to observation of scientific research.

Charles E. Myers,

Permit Office.

[FR Doc. 88–27075 Filed 11–22–88; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Containment Systems; Meeting

The ACRS Subcommittee on Containment Systems will hold a meeting on December 6, 1988, Room P–114, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, December 6, 1988—8:30 a.m. until the conclusion of business.

The Subcommittee will review the NRR staff's document on final recommendations for containment performance and improvements (BWR Mark I only).

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Dean Houston (telephone 301/492–9521) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: November 17, 1988.

Morton W. Libarkin,

Assistant, Executive Director for Project Review.

[FR Doc. 88–27103 Filed 11–22–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–498–OL]

Houston Lighting & Power Co. (South Texas Project Unit 1); Issuance of Supplement to Director's Decision DD–88–3 (DD–88–18)

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has denied a request to reconsider Director's Decision DD–88–3 filed by Ms. Billie P. Garde and Mr. Richard E. Condit on behalf of the Government Accountability Project (GAP). Director's Decision DD–88–3 denied a Petition filed by GAP under 10 CFR 2.206. In large part, the basis for the

denial of the GAP Petition was an evaluation performed by the Safety Significance Assessment Team, documented in a report in which the staff concludes that allegations of safety concerns could not be substantiated. In its present request, GAP alleges that DD–88–3 is not responsive to its Petition and is not based on substantial evidence, and is therefore arbitrary and capricious. Specifically, GAP alleges that the NRC staff investigation of safety allegations was inherently inadequate to serve as a basis for any assessment of the programmatic implications of the allegations.

GAP's request has been denied for the reasons fully described in the "Supplement To Director's Decision DD–88–3," issued on this date, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC 20555, and the Local Public Document Rooms for the South Texas Nuclear Project located at the Austin Public Library, 810 Guadalupe Street, Austin, Texas 78701 and at the Wharton County Junior College, J.M. Hodges Learning Center, 911 Boling Highway, Wharton, Texas 77488.

A copy of the Supplement will be filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c). As provided in this regulation, Director's Decision DD–88–3 and the Supplement will constitute the final action of the Commission twenty five (25) days after issuance, unless the Commission on its own motion institutes review of the Decision and Supplement within that time.

Dated at Rockville, Maryland this 15th day of November 1988.

For the Nuclear Regulatory Commission.

James H. Sniezak,

Acting Director, Office of Nuclear Reactor Regulation.

[FR Doc. 88–27104 Filed 11–22–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–295 and 50–304]

Commonwealth Edison Co.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 114 to Facility Operating License DPR–39 and Amendment No. 103 to Facility Operating License DPR–48 issued to Commowealth Edison Company (the licensee) for operation of Zion Nuclear Power Station, Units 1 and 2, located in Lake County, Illinois.

The amendments consist of proposed changes to the Zion Technical Specification section 3.2, 3.4, 3.8, and 3.9 that would authorize Zion Station to remove the Boron Injection Tank (BIT) and the associated piping, valves and heat trace for recirculation between the BIT and the Boric Acid Tanks (BAT). These amendments will result in operational and safety benefits for the station. Presently, the negative effect of the high boric acid concentration in the BIT and BAT systems necessitates frequent BAT transfer pump seal repairs, heat trace repairs and entering into Technical Specification Limiting Conditions of Operation to accomplish these repairs. The detrimental consequences of high boric acid concentrations are also potential contributing factors to Emergency Core Cooling System inoperability. Improved analytical techniques used for Final Safety Analysis Report acident analyses show that the BIT concentrations could be reduced or the entire BIT could be removed from the Westinghouse plants.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal register** on September 8, 1988 (53 FR 34849). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and Finding of No Significant Impact related to this action and has determined not to prepare an environmental impact statement. Based upon the Environmental Assessment, the Commission has concluded that the issuance of these amendments will not have a significant effect on the quality of the human environment.

For further details with respect to the action see (1) the application for amendment dated June 9, 1988, (2) Amendment No. 114 to License No. DPR–39, (3) Amendment No. 103 to License No. DPR–48, (4) the Commission's relate Safety Evaluation, and (5) Environmental Assessment and Finding of No Significant Impact. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington DC and at the Waukegan Public Library, 128 N. County Street, Waukegan, Illinois 60085. Copy of items (2) through (5) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Dated at Rockville, Maryland this 9th day of November 1988.

For the Nuclear Regulatory Commission.

Stephen P. Sands,

Acting Director, Project Directorate III–2, Division of Reactor Projects—III, IV, V, and Special Projects.

[FR Doc. 88–27105 Filed 11–22–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–335–OLA; ASLBP No. 88–560–01–LA]

Florida Power & Light Co. (St. Lucie Plant, Unit No. 1); Rescheduled Hearing

November 17, 1988.

Before Administrative Judges: B. Paul Cotter, Jr., Chairman, Glenn O. Bright, and Dr. Richard F. Cole.

Please take notice that the evidentiary hearing on the issues remaining in this proceeding scheduled to begin at 9:00 a.m. on Tuesday, December 6 and continue through Thursday, December 8, 1988, at the Howard Johnson Lodge, Sailfish Room, 950 S. Federal Highway, Stuart, Florida has been postponed.

The hearing has been rescheduled to commence at 9:00 a.m. on January 24, 1989, and continue from day to day until completed. A notice giving the new location will be issued as soon as hearing space can be confirmed.

Dated at Bethesda, Maryland, this 17th day of November 1988.

For the Atomic Safety and Licensing Board.

B. Paul Cotter, Jr.,

Chairman, Administrative Judge.

[FR Doc. 88–27106 Filed 11–22–88; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–320]

GPU Nuclear Corp. (Three Mile Island Nuclear Station Unit 2); Exemption

I

GPU Nuclear Corporation, Metropolitan Edison Company, Jersey Central Power and Light Company and Pennsylvania Electric Company (collectively, the licensee) are the holders of Facility Operating License No. DPR–73, which had authorized operation of the Three Mile Island

Nuclear Station, Unit 2 (TMI-2) at power levels up to 2772 megawatts thermal. The facility, which is located in Londonderry Township, Dauphin County, Pennsylvania, is a pressurized water reactor previously used for the commercial generation of electricity.

By Order for Modification of License, dated July 20, 1979, the licensee's authority to operate the facility was suspended and the licensee's authority was limited to maintenance of the facility in the present shutdown cooling mode (44 FR 45271). By further Order of the Director, Office of Nuclear Reactor Regulation, dated February 11, 1980, a new set of formal license requirements was imposed to reflect the post-accident condition of the facility and to assure the continued maintenance of the current safe, stable, long-term cooling condition of the facility (45 FR 11292). The license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

II

On August 5, 1987, the NRC published in the **Federal Register** a final rule amending 10 CFR 50.54(w). The rule increased the amount of on-site property damage insurance required to be carried by NRC's power reactor licensees. The rule also required these licensees to obtain by October 4, 1988 insurance policies that prioritized insurance proceeds for stabilization and decontamination after an accident and provided for payment of proceeds to an independent trustee who would disburse funds for decontamination and cleanup before any other purpose. Subsequent to publication of the rule, the NRC has been informed by insurers who offer nuclear property insurance that, despite a good faith effort to obtain trustees required by the rule, the decontamination priority and trusteeship provisions will not be able to be incorporated into policies by the time required in the rule. In response to these comments and related petitions for rulemaking, the Commission has proposed a revision of 10 CFR 50.54(w)(5)(i) extending the implementation schedule for 18 months (53 FR 36338, September 19, 1988). However, since this rulemaking action was not completed by October 4, 1988, the Commission is issuing a temporary exemption from the requirements of 10 CFR 50.54(w)(5)(i) until completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking, the licensee shall comply with the provisions of such rule.

III

Pursuant to 10 CFR 50.12, "The Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of the regulations of [10 CFR Part 50], which are * * * Authorized by law, will not present an undue risk to the public health and safety, and are consistent with the common defense and security." Further, § 50.12(a)(2) provides *inter alia,* "The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever * * * (v) The exemption would provide only temporary relief from the applicable regulation and the licensee has made good faith efforts to comply with the regulation."

Despite a good faith effort to comply with the provisions of the rule, insurers providing property damage insurance for nuclear power facilities and licensees insured by such insurers have not been able to comply with the regulation and the exemption provides only temporary relief from the applicable regulation.

As noted by the Commission in the Supplementary Information accompanying the proposed rule, there are several reasons for concluding that delaying for a reasonable time the implementation of the stabilization and decontamination priority and trusteeship provisions of § 50.54(w) will not adversely affect protection of public health and safety. First, during the period of delay, the licensee will still be required to carry $1.06 billion insurance. This is a substantial amount of coverage that provides a significant financial cushion to licensees to decontaminate and clean up after an accident even without the prioritization and trusteeship provisions. Second, nearly 75 percent of the required coverage is already prioritized under the decontamination liability and excess property insurance language of the Nuclear Electric Insurance Limited-II policies. Finally, there is only an extremely small probability of a serious accident occurring during the exemption period. Even if a serious accident giving rise to substantial insurance claims were to occur, NRC would be able to take appropriate enforcement action to assure adequate cleanup to protect public health and safety and the environment.

IV

Accordingly, the Commission has determined, pursuant to 10 CFR 50.12(a), that (1) a temporary exemption as described in section III, is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security and (2) in this case, special circumstances are present as described in section III. Therefore, the Commission hereby grants the following exemption:

GPU Nuclear Corporation is exempt from the requirements of 10 CFR 50.54(w)(5)(i) until the completion of the pending rulemaking extending the implementation date specified in 10 CFR 50.54(w)(5)(i), but not later than April 1, 1989. Upon completion of such rulemaking the licensee shall comply with the provisions of such rule.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will not result in any significant environmental impact (53 FR 43297).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 15th day of November 1988.

Steven A. Varga,

Director, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 88-27107 Filed 11-22-88; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: 10 CFR Part 39—Licenses and Radiation Safety Requirements for Well Logging.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Applications for new licenses and amendments may be submitted at any time. Applications for renewal are submitted every five years. Reports are submitted as events occur.

5. Who will be required or asked to report: Applicants for and holders of specific licenses authorizing the use of licensed radioactive material in well logging.

6. An estimate of the number of responses: 578.

7. An estimate of the total number of hours needed to complete the requirement or request: Approximately 1 hour per response for reports, plus approximately 83 hours annually per recordkeeper. The total industry burden is 15,554 hours.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: NRC regulations in 10 CFR Part 39 establish radiation safety requirements for the use of radioactive material in well logging operations. The information in the applications, reports and records is used by the NRC staff to ensure that the health and safety of the public is protected and that licensee possession and use of source and byproduct material is in compliance with license and regulatory requirements.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Washington, DC.

Comments and questions should be directed to the OMB, reviewer, Nicolas B. Garcia, (202) 395-3084.

The NRC Clearance Officer is Brenda Jo. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 16 day of November, 1988.

For the Nuclear Regulatory Commission.

William G. McDonald,

Director, Office of Administration and Resources Management.

[FR Doc. 88-27100 Filed 11-22-88; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget (OMB) Review

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the Office of Management and Budget (OMB) review of information collection.

SUMMARY: The Nuclear Regulatory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, revision, or extension: Extension.

2. The title of the information collection: Personal Qualifications Statement—Licensee.

3. The form number if applicable: NRC 398.

4. How often the collection is required: On occasion and every six years (at renewal).

5. Who will be required or asked to report: Individual requiring a license to operate the controls at a nuclear facility.

6. An estimate of the number of responses: 1900 annually.

7. An estimate of the total number of hours needed to complete the requirement or request: 3,850; approximately 2 hours per response.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: NRC Form 398 requests detailed information that should be submitted by a licensing candidate when applying for a new or renewal license to operate the controls at a nuclear facility. This information, once collected, would be used for licensing actions and for generating reports on the Operator Licensing Program.

ADDRESSES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 2120 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION: Comments and questions should be directed to the OMB reviewer: Nicolas B. Garcia (202) 395-3084.

NRC Clearance Officer is Brenda J. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 16th day of November 1988.

For the Nuclear Regulatory Commission.

William G. McDonald,

Director, Office of Administration and Resources Management.

[FR Doc. 88-27101 Filed 11-22-88; 8:45 am]

BILLING CODE 7590-01-M

Documents Containing Reporting or Recordkeeping Requirements; Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regulatory Commission (NRC) has recently submitted to the Office of Management and Budget (OMB) for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

1. Type of Submission, new, revision, or extension: Extension.

2. Titles of the information collection: 10 CFR Part 25—Access Authorization for Licensee Personnel; and 10 CFR Part 95—Security Facility Approval and Safeguarding of National Security Information and Restricted Data.

3. The form number if applicable: Not applicable.

4. How often the collection is required: On occasion.

5. Who will be required or asked to report: Nuclear facility licensees and other organizations requiring access to NRC classified information.

6. An estimate of the number of responses: 10 CFR Part 25—96; 10 CFR Part 25—66.

7. An estimate of the total number of hours needed to complete the requirement or request: 10 CFR Part 25—.7 per response; 95 total; 10 CFR Part 95—6.8 per responses; 919 total.

8. An indication of whether section 3504(h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: 10 CFR Parts 25 and 95—Licensees and other organizations are required to provide information to ensure that an adequate level of protection is provided NRC classified information and material.

Copies of the submittal may be inspected or obtained for a fee from the NRC Public Document Room, 2120 L Street, NW., Washington, DC.

Comments and questions should be directed to the OMB reviewer, Nicolas B. Garcia, (202) 395-3084.

The NRC Clearance Officer is Brenda J. Shelton, (301) 492-8132.

Dated at Bethesda, Maryland, this 16th day of November 1988.

For the Nuclear Regulatory Commission.

William G. McDonald,

Director, Office of Administration and Resources Management.

[FR Doc. 88-27102 Filed 11-22-88; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Performance Review Board, Membership

Notice is hereby given in accordance with 5 U.S.C. 4314 of a revision in the membership of the Performance Review Board of the Office of the United States Trade Representative (USTR). The revision consists of the following appointments:

Chair—W. Douglas Newkirk, Assistant United States Trade Representative for GATT Affairs.

Alternate—Peter Allgeier, Assistant United States Trade Representative for Asia and the Pacific.

Members—James Frierson, Chief of Staff, Judith Bello, General Counsel, Jon

Rosenbaum, Assistant United States Trade, Representative for Latin America, Caribbean, and Africa, Marian Barell, Director of Telecommunications Trade Policy.

Ex-Officio Member—Michael Doyle, Assistant United States Trade Representative for Administration.

Executive Secretary—John P. Giacomini, Director, Human Resources.

This was effective August 10, 1988.

John P. Giacomini,

Director, Human Resources.

[FR Doc. 88-27144 Filed 11-22-88; 8:45 am]

BILLING CODE 3190-01-M

POSTAL RATE COMMISSION

[Order No. 807; Docket No. A89-3]

Notice and Order Accepting Appeal and Establishing Procedural Schedule; Kurtz, IN

Issued: November 14, 1988.

In the matter of Kurtz, Indiana 47249 The Kurtz Community, Petitioners.

Before Commissioners: Janet D. Steiger, Chairman; Patti Birge Tyson, Vice-Chairman; John W. Crutcher; Henry R. Folsom; W.H. "Trey" LeBlanc III.

Docket Number: A89-3.

Name of Affected Post Office: Kurtz, Indiana 47249.

Name(s) of Petitioner(s): The Kurtz Community.

Type of Determination: Consolidation.

Date of Filing of Appeal Papers: November 7, 1988.

Categories of Issues Apparently Raised

1. Effect on postal services (39 U.S.C. 404(b)(2)(C).

2. Effect on the community (39 U.S.C. 404(b)(2)(A).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioners. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before November 22, 1988.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

[Docket No. A89-3, Kurtz, Indiana 47249]

Nov. 7, 1988	Filing of Petition.
Nov. 14, 1988	Notice and order of Filing of Appeal.
Dec. 2, 1988	Last day of filing of petitions to intervene (*see* 39 CFR 3001.111(b)).
Dec. 12, 1988	Petitioners' Participant Statement or Initial Brief (*see* 39 CFR 3001.115 (a) and (b)).
Jan. 3, 1989	Postal Service Answering Brief (*see* 39 CFR 3001.115(c)).
Jan. 18, 1989	Petitioners' Reply Brief should Petitioners choose to file one (*see* 39 CFR 3001.115(d)).
Jan. 25, 1989	Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (*see* 39 CFR 3001.116).
Mar. 7, 1989	Expiration of 120-day decisional schedule (*see* 39 U.S.C. 404(b)(5)).

[FR Doc. 88-27095 Filed 11-22-88; 8:45 am]

BILLING CODE 7715-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-26286; File No. 600-26]

Self-Regulatory Organizations; Notice of Filing of Application for Registration as a Clearing Agency by Clearing Corporation for Options and Securities, and Request for Comments

On October 14, 1988, the Clearing Corporation for Options and Securities ("CCOS") filed with the Commission an application for temporary registration as a clearing agency under section 17A of the Securities Exchange Act of 1934, 15 U.S.C. 78q-1 ("Act") and Rule 17Ab2-1 thereunder. CCOS proposes to issue standardized securities options and provide related clearance and settlement services.

I. Introduction

CCOS is a subsidiary of the Chicago Board of Trade Clearing Corporation ("BOTCC"), which provides clearing services for futures and commodities transactions executed on the Chicago Board of Trade. CCOS intends to provide clearance and settlement services for securities options, specifically index options.

CCOS's application, filed on Form CA-1 under the Act, includes rules, procedures, and arrangements for the clearance and settlement of standardized securities options. Although CCOS is a separate corporate entity from the BOTCC, BOTCC would perform services and data processing functions for CCOS under a service agreement, which is included in the application.

II. Clearing Agency Background Information

The Options Clearing Corporation ("OCC") currently acts as the common issuer and clearing agency for all standardized securities options. Prior to the 1975 amendments to the Act, the Commission approved plans by the American Stock Exchange and CBOE to establish OCC as a common clearing entity for all exchange-traded options.[1] After establishment of OCC, Congress enacted section 17A of the Act, which provides comprehensive Congressional findings and statutory provisions concerning the clearance and settlement of securities transactions.[2]

The Commission interpreted section 17A of the Act in proceedings to determine whether to grant National Securities Clearing Corporation ("NSCC") registration as a clearing agency. NSCC represented a consolidation of three clearing organizations that had served separately the New York Stock Exchange, American Stock Exchange, and National Association of Securities Dealers.[3]

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[1] *See* Securities Exchange Act Release No. 11146 (December 19, 1974), 5 SEC Doc. 774. *See also* Securities Exchange Act Release No. 10631 (February 7, 1974), 3 SEC Doc. 506.

[2] The CCOS application represents the first application by a clearing organization other than by OCC (or its subsidiary the Intermarket Clearing Corporation) to provide clearing agency services for standardized options. For legislative history concerning Section 17A of the Act, *See, e.g.*, Report of Senate Comm. on Housing and Urban Affairs, Securities Acts Amendments of 1975: Report to Accompany S. 249, S. Rep. No. 94-75, 94th Cong., 1st Sess. 4 (1975); Conference Comm. Report to Accompany S. 249, Joint Explanatory Statement of Comm. of Conference, H.R. Rep. No. 229, 9th Cong., 1st Sess. 102 (1975).

[3] Prior to NSCC's registration, clearing organizations were tied strictly to trading markets, which precluded competition among clearing agencies and forced broker-dealers trading in those three markets to use separately those three clearing organizations.

Although the Commission recognizes its statutory obligation to have due regard for competition among clearing agencies,[4] the Commission granted NSCC conditional, temporary registration based on its belief that NSCC's registration and applicable conditions would, among other things, promote competition among broker-dealers and reduce costs for clearing securities transactions.[5] The conditions to NSCC's registration, however, were designed to promote competition among clearing agencies and underlined the Commission's conclusion that the continued existence of multiple stock clearing corporations should be encouraged.[6]

The Commission generally has attempted to strike an appropriate balance between clearing agency competition and efficient cost-effective clearing arrangements, which, when available to broker-dealers in applicable markets, promote competition among broker-dealers. Thus, although securities clearing corporations and depositories associated with various securities markets can compete for clearing business, interfaces between clearing corporations [7] and depositories [8] enable broker-dealers and bank members to settle all equity securities transactions through membership in one clearing corporation and one depository.[9]

[4] *See, e.g.*, Securities Exchange Act No. 13163 (January 13, 1977), 42 FR 3916 ("NSCC Temporary Registration Order").

[5] NSCC's registration was affirmed and remanded in *Bradford National Corporation* v. *SEC*, 590 F.2d 1085 (DC Circuit 1978). The case was remanded for the Commission to consider further its approval of geographic price mutualization by NSCC and NSCC's mode of allocating its facilities management contract. *See also* Securities Exchange Act Release No. 17562 (February 10, 1981), which affirmed the Commission's registration of NSCC.

[6] As reflected in the NSCC Temporary Registration Order, those conditions included requirements that NSCC establish interfaces with other clearing agencies, and make its over-the-counter comparison system and branch offices available to other clearing agencies. *See also* Release No. 17562. In another context, the Commission mandated an interface between proposed municipal securities clearing operations of NSCC and Bradford Securities Processing Services. *See* Securities Exchange Act Release No. 17343 (November 26, 1980), 45 FR 80224.

[7] Regional Interface ("RIO") arrangements among clearing corporations, for example, enable broker-dealers to settle all eligible exchange-lised and over-the-counter equity security transactions at a single clearing corporation. *See, e.g.*, NSCC Temporary Registration Order.

[8] Interfaces among registered securities depositories enable a sole member at one depository to deliver securities through a depository interface to a sole member of another depository. *See, e.g.*, Securities Exchange Act Release Nos. 13375 (March 15, 1977), 42 FR 15996; 20461 (December 7, 1983), 48 FR 55654; 23083 (March 31, 1986), 51 FR 12421.

[9] That capability has been referred to as "one-account settlement." *See, e.g.*, Securities Exchange Act Release Nos. 23083 (March 31, 1986), 51 FR 12421; 16900 (June 17, 1980), 45 FR 41920. *See also* Letter from Jonathan G. Katz, Secretary, Commission, to Jean A. Webb, Secretary, CFTC, dated May 5, 1987, at note 3.

III. Specific Requests for Comments

A. Common Clearing

The Commission requests comment on whether it should deny the CCOS application in favor of common clearing of standardized options at OCC. Commentators should discuss applicable law and the costs and benefits of common versus multiple clearing facilities for standardized securities options. In particular, commentors should address whether common clearing is consistent with the statutory objectives contained in section 17A of the Act concerning maintenance of fair competition among clearing agencies and the linking of clearance and settlement facilities. Finally, Commentators should address the effects that market stress (*e.g.*, high volume and volatility) likely would have on multiple options clearing systems. Commentators addressing the efficient integration of multiple clearing systems should consider the questions below.

B. Integration of Multiple Options Clearing Systems

The Commission preliminarily believes that Section 17A of the Act mandates that any approval of multiple clearing systems for standardized options include conditions requiring efficient integration of those systems. As discussed above, in the National Clearance and Settlement System for stocks the Commission has determined that this goal requires the provision of "one-account settlement" effected by the operation, without fees, of interfaces among stock clearing corporations. Accordingly, the Commission requests comments on the following:

(1) Whether the stock clearing model can be adapted effectively for options clearing systems;

(2) Whether multiple options clearing systems should include multiple issuers of standardized options and, if so, how to maintain fungibility among such options and how to treat multiple options issuers under the Federal Securities laws (*e.g.*, whether such issuers should be treated as common issuers or separate issuers with each acting as a financial intermediary on behalf of its members vis-a-vis the other issuer);

(3) The most efficient, yet prudential, manner for each clearing organization to assure payment of its obligations to other clearing organizations;

(4) Whether multiple clearing systems should be required to employ identical margin levels and, if not, the effects of different margin levels for otherwise fungible options, and the manner in which multiple clearing systems should integrate or coordinate intra-day variation margin calls;

(5) The manner in which multiple clearing systems would assign exercised options and the effects of significant disparities in open interest at the clearing organizations on the assignment process;

(6) The manner in which multiple clearing systems should respond to member defaults and the default of a clearing organization;

(7) The manner in which multiple clearing systems should allocate costs associated with integration and services performed for one another;

(8) The manner in which multiple clearing systems should operate net money settlement with their members and among themselves;

(9) The effects multiple clearing systems would have on current relationships among options markets and options clearing facilities, including the manner in which compared trades would be reported by exchanges to options clearing organizations.

C. Relationships Among Markets for Derivative Products

As described in various reports during the last year, markets for derivative products are interrelated.[10] Those interrelationships have been recognized and addressed in a number of market initiatives, including intermarket cross-margin systems that calculate a single margin requirement for a portfolio of securities options and futures products.[11]

The Commission invites commentators to discuss whether intermarket cross-margin systems raise prudential or competitive concerns that may require special conditions or regulations applicable to multiple clearing facilities for standardized options. The Commission also requests comment on whether the relationships between CCOS and its affiliated trading market and futures clearing corporation raise concerns or create a need for particular controls to assure safe, efficient, and competitive clearance and

[10] *See, e.g.*, Division of Market Regulation, The October 1987 Market Break (February 1988); The Interim Report of the Working Group on Financial Markets (May 1988); Report of the Presidential Task Force on Market Mechanisms (January 1988).

[11] *See, e.g.*, Securities Exchange Act Release Nos., 26153 (October 3, 1988), 53 FR 39567; 26154 (October 3, 1988), 53 FR 39556.

settlement systems for securities options and futures products.

IV. Request for Comments

Commentators are invited to submit written data, views, and arguments concerning the foregoing application and specific requests for comment within thirty days of the date of publication of this notice in the **Federal Register**. Such written data, views, and arguments will be considered by the Commission in deciding whether to approve the CCOS registration application. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Reference should be made to File No. 600–26. Copies of the application and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 450 Fifth Street NW., Washington, DC.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 16, 1988.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–27059 Filed 11–22–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26294; File No. SR–NASD–88–44]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving Proposed Rule Change Relating to Increased Annual Fees Paid by Issuers of Securities Included in the NASDAQ System

The National Association of Securities Dealers, Inc. ("NASD") submitted a proposed rule change on September 27, 1988, pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b–4 thereunder to amend Section B of Part IV of Schedule D to the NASD By-Laws to delete certain existing tex and add new provisions regarding increased annual fees paid by issuers of securities included in the NASDAQ system.

Notice of the proposed rule change together with the substance of the terms of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 26164, October 6, 1988) and by publication in the **Federal Register** (53 FR 40149, October 13, 1988). No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, with the requirements of section 15A and the rules and regulations thereunder.

The NASD has indicated that they will impose this fee beginning June 1, 1989. It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change, SR–NASD–88–44, be, and hereby, is, approved, effective June 1, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Jonathan G. Katz,

Secretary.

November 17, 1988.

[FR Doc. 88–27062 Filed 11–22–88; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–26293; File No. SR–NYSE–88–37]

Self-Regulatory Organizations; Filing and Order Granting Limited Accelerated Approval of Proposed Rule Change by New York Stock Exchange, Inc., Relating to Auxiliary Closing Procedures

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) ("Act"), notice hereby is given that on November 15, 1988, the New York Stock Exchange ("NYSE" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

(a) The proposed rule change adds auxiliary closing procedures for assisting in handling the order flow associated with the expiration of stock index futures, stock index options and options on stock index futures (collectively, "derivative instruments"). These procedures will apply on the one day a month that the derivative products expire ("expiration day"). The rule change is being proposed for a one-year period, beginning November 1988 and extending through October 1989.

The proposed rule change supersedes all othe Exchange rules and policies inconsistent with it. In regard to the stocks subject to the auxiliary closing procedures, the superseding procedures preclude (i) entry of market-at-the-close orders relating to the liquidation of any positions that relate to a trading strategy involving any derivative instrument after 3:30 p.m. and (ii) entry of other market-at-the-close orders after an imbalance publication unless they offset the imbalance.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in Sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(a) Purpose—Since September 1986, the Exchange has adopted auxiliary closing procedures for use on days when the stock index futures, stock index options and options on stock index futures expire concurrently.[1] These procedures apply to market-at-the-close orders and provide an orderly mechanism for displaying potential order imbalances in the pilot stocks. The purpose of the proposed rule change is to adopt these procedures (with one proposed modification) for use on a monthly basis for the next year.

The Exchange is proposing using these procedures for all monthly derivative product expirations because of increased end-of-day market volatility at the monthly expirations. This volatility appears to result from market-at-the-close orders entered to liquidate stock positions related to derivative products.

The one proposed modification is to preclude after 3:30 p.m. the entry of market-on-close orders relating to the liquidation of *all* positions that relate to a trading strategy involving derivative

[1] The Exchange has adopted these procedures pursuant to a request of the Commission staff. *See* Letter dated September 16, 1986 to Robert J. Birnbaum, President, NYSE, from Richard G. Ketchum, Director, Division of Market Regulation, Securities and Exchange Commission.

instruments.[2] Previously, the procedures applied only to market-at-the-close orders relating to the liquidation of index arbitrage positions. The Exchange is proposing this change because there are a number of trading strategies in addition to index arbitrage involving derivative instruments (*e.g.*, portfolio insurance) where the use of market-at-the-close orders could contribute to market volatility.

The Exchange has previously refiled the closing procedures each quarter, rather than sought approval for multiple quarters, because it believes that the appropriate response to market volatility relating to the expiration of derivative products is for futures and options markets to base the settlement prices of derivative products on opening, rather than closing Exchange prices.[3] The need to apply the closing procedures to monthly expirations makes separate filings for each expiration impractical, leading the Exchange to seek approval for one year. During that year the Exchange hopes that all futures and options markets will adopt the use of opening prices for settlement purposes, thus obviating the need for these special closing procedures.

(b) *Statutory basis*—The basis under the Act for the proposed rule change is section 6(b)(5), which requires that rules of the Exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments regarding the proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

[2] As noted above, "derivative instruments" include only stock index options, stock index futures, and options on stock index futures.

[3] The Exchange has adopted permanent opening auxiliary procedures to assist in the handling of order flow relating to the expiration of derivative products. *See* Securities Exchange Act Release No. 25804 (June 15, 1988), 53 FR 23474.

III. Date Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange seeks accelerated effectiveness of the proposed rule change solely with respect to the November 18 and December 16 derivative product expirations and asks the Commission to approve it on this limited basis as soon as practicable. Informing the industry that the Exchange intends to utilize the closing procedures specified by the proposed rule change should occur as soon as possible to permit investors and firms to plan accordingly. Moreover, the procedures contain only one minor change from the procedures used previously for quarterly expirations. Accordingly, the Exchange seeks this limited action by the Commission in time to permit notification of interested parties in advance of the November 18 and December 16 expirations. The Exchange is not requesting accelerated effectiveness for future expirations at this time.

The Exchange is not requesting accelerated effectiveness for expirations beyond the December 1988 expiration. Rather, the Exchange seeks publication for comment of a proposed one-year program that would involve monthly implementation of its auxiliary closing procedures through the October 1989 expiration.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, the requirements of section 6 and the rules and regulations thereunder. The market-at-the-close procedures described herein have been utilized on previous quarterly expirations dating back to September 1986. These procedures were part of efforts by the Commission and the self-regulatory organizations to address stock market volatility associated with the expiration of derivative products traded in conjunction with stocks as part of index arbitrage. By requiring early submission of market-at-the-close orders and by disseminating imbalances, the NYSE has been able to attract contra-side interest to alleviate imbalances caused by the closing of index arbitrage positions. The procedures have proven to be an operational success, and have contributed significantly to the smooth handling of the increased order flow associated with expirations.

The Commission also finds that the Exchange's proposals to begin implementing its market-at-the-close procedures during all monthly expirations (as opposed to only quarterly expirations) and to apply the procedures to *all* stock trades related to a trading strategy involving derivative instruments (as opposed to only index arbitrage trading) are cosistent with the requirements of the Act and the rules and regulations thereunder. The Commission believes there are trading strategies in addition to index arbitrage that can lead to stock market volatility on expiration Fridays. In addition, these strategies often involve the trading of derivative index instruments that expire on a monthly basis, rather than only on the quarterly expirations covered currently by the NYSE's market-at-the-close procedures.

The Commission finds good cause for approving application of the NYSE's market-at-the-close procedures to the November and December 1988 monthly expirations prior to the thirtieth day after the date of publication of notice of filing thereof. This will permit the Exchange to implement and notify market participants about procedures that it believes will appropriately address stock market volatility resulting from market-at-the close orders related to trading strategies involving derivative index products. At the same time, the Commission is publishing for comment the NYSE's propsoal to implement its auxiliary closing procedures on a monthly basis through the October 1989 expiration.

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission

and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 14, 1988.

It therefore is ordered, pursuant to section 19(b)(2) of the act, that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: November 17, 1988.

[FR Doc. 88-27063 Filed 11-22-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16639; 812-7002]

The Cardinal Fund Inc. et al.; Application

November 17, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

Applicants: The Cardinal Fund Inc. ("Cardinal"), Cardinal Government Guaranteed Fund ("Cardinal Government Guaranteed"), Cardinal Government Securities Trust ("Cardinal Tax Exempt") (collectively, the "Funds"), and The Ohio Company ("TOC") (collectively, "Applicants").

Relevant 1940 Act Sections: Approval of exchange offers requested under section 11(a).

Summary of Application: Applicants seek an order approving certain exchange offers to be made between the Funds, or which may be made between the Funds and future investment companies which have the same investment adviser or principal underwriter or whose investment advisers or principal underwriters are under common control with the offering company on a basis other than the relative net asset values of the shares to be exchanged.

Filing Date: The application was filed on March 8, 1988, and amended on November 17, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 8, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC, 20549. Applicants, 155 E. Broad Street, Columbus, Ohio 43215, Attention: C.A. Peterson.

FOR FURTHER INFORMATION CONTACT: Fran Pollack-Matz, Staff Attorney (202) 272-7714, or Karen L. Skidmore, Branch Chief (202) 272-3023, Office of Investment Company Regulation.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Each of the Funds is a diversified, open-end, management investment company registered under the 1940 Act. TOC acts as principal underwriter of each of the Funds. TOC is the investment adviser of Cardinal. Cardinal Management Corp., a wholly-owned subsidiary of TOC, is the investment adviser of Cardinal Government Guaranteed and Cardinal Tax-Exempt.

Applicants have requested that any order issued by the Commission also extend to all other investment companies: (1) Organized after the initial filing of the application, (2) having a common investment adviser or principal underwriter or having investment advisers or principal underwriters which are under common control with the offering company, (3) holding themselves out to investors as related companies for purposes of investment or investor services, and (4) having the same exchange offers and load characteristics described herein ("Additional Funds").

2. TOC maintains a continuous public offering of shares of Cardinal Government and Cardinal Tax Exempt (together called the "No-Load Funds") at their respective current net asset value without a sales charge and also maintains a continuous public offering of shares of Cardinal and Cardinal Government Guaranteed (together called the "Load Funds") at their respective current net asset value plus a sales charge. The sales charge for Cardinal begins at 8.5% for purchase of less than $10,000 and decreases at different break-points through purchases of $500,000 or more, where the sales charge is 1%. The sales charge for Cardinal Government Guaranteed begins at 4.75% for purchases of less than $100,000 and decreases at different breakpoints through purchases of $1,000,000 or more, where the sales charge is 1%. Each of the Load Funds has a special charge for certain purchasers which are trusts qualifying under section 401 of the Internal Revenue Code of 1986 which begins at 4.75% for purchases of less than $100,000 and decreases at different breakpoints through purchases of $500,000 or more, where the sales charge or load is 1%. There is no sales charge imposed on reinvestment of dividends and capital gains paid on shares of the Funds.

3. Not more often than once each calendar quarter, upon written authorization of TOC and payment of a nominal administrative fee (currently $5.00 for each of the Funds) shareholders of the Funds may exchange some part of, or all of their currently-owned shares of one of the Funds (the "Exchanged Securities") for shares of another one of the Funds (the "Acquired Securities").

4. The exchange shall be effected on the basis of the relative net asset values of the Exchanged Securities and the Acquired Securities at the time of the exchange, except that a sales load shall be charged equal in amount to any difference between the sales load then chargeable upon purchase of the Acquired Securities in the absence of an exchange and the sales load previously paid upon the purchase of the Exchanged Securities.

5. In calculating the sales load previously paid upon the purchase of the Exchanged Securities and the sales load then chargeable upon purchase of the Acquired Securities in the absence of an exchange (i) where the Exchanged Securities represent less than all of the shares in one of the Funds being exchanged, the security upon which the highest sales load was previously paid is deemed to be exchanged first, (ii) where the Exchanged Securities were acquired through reinvestment of dividends or capital gains distributions, the Exchanged Securities are deemed to have been acquired with a sales load equal to the sales load previously paid on the securities on which the dividend

was paid or distribution made, (iii) if the Exchanged Securities themselves had been acquired pursuant to an exchange or exchanges with one or more of the Funds, the sum of the sales previously paid on the Exchanged Securities and the previously exchanged securities shall be deemed to be the sales load previously paid upon purchase of the Exchanged Securities, and (iv) all applicable provisions for reduced sales charges will be considered in determining the sales charge applicable to the purchase of the Acquired Securities and any such reductions in sales charges will be made in accordance with the conditions of Rule 22d-1 under the 1940 Act.

6. More than 97% of the Funds' shares sold on an annual basis are sold by TOC. Less than 3% of the Funds' shares sold on an annual basis are sold by broker-dealers which sell such shares pursuant to agreements with TOC ("Selected Dealers").

7. TOC will not initiate a general telephone solicitation to current shareholders of the Funds to inform them of the exchange privilege or to actively solicit an exchange, nor will its representatives solicit Fund shareholders on an individual basis except on the infrequent occasion when the circumstances of a particular individual account suggest that an exchange would be in the best interests of the individual shareholder and the exchange is made at the request of the shareholder.

8. TOC has in place a program to review all purchases and sales of shares of the Funds, including exchanges where a commission is paid to one of TOC's registered representatives. Officers of TOC monitor the information generated by such program to insure compliance with the Securities Exchange Act of 1934 and the National Association of Securities Dealers, Inc. Rules of Fair Practice and TOC believes that such a program will identify excessive exchanges which may not be in the best interests of, or suitable for, the exchanging shareholders.

9. Shareholders of the Funds will be notified of the Funds' exchange program, including any administrative fee which may be imposed on exchange transactions, by means of the Funds' prospectuses and by means of other communications, including sales literature and other advertising that describe the exchange program. Any such communication describing the Funds' exchange program will include notification of any administrative fee related thereto.

Applicants' Legal Conclusions

1. The purpose of the administrative fee is to defray the Funds' administrative expenses incurred in exchange transactions.

2. The purpose of the proposed exchange program is to permit shareholders of the Funds who change their investment objectives to exchange, in a simple transaction, their shares in one of the Funds for the shares of another Fund on an equitable basis. If an exchange from one of the No-Load Funds to one of the Load Funds were made at relative net asset value without a sales charge, then the distribution system of the Load Funds would be disrupted because an investor could easily avoid the sales charge of the Load Funds by first purchasing one of the No-Load Funds and then exchanging the shares so acquired for shares of one of the Load Funds that are otherwise sold with a sales charge.

3. The exchange program complies with the terms and conditions of Rule 11a-3 under the 1940 Act, as proposed in Investment Company Act Release No. 16504, July 29, 1988.

Applicants' Conditions

If the requested order is granted, the Applicants agree to the following conditions:

1. The administrative fee or any scheduled variation thereof will be uniformly applied to all shareholders participating in the exchange program.

2. Any variation in sales charges on sales of shares of the Funds, by means of exchanges or otherwise, will be effectuated in accordance with Rule 22d-1 under the 1940 Act.

3. Applicants will comply with the terms and conditions of proposed Rule 11a-3 under the 1940 Act, if and when the proposed rule is adopted.

4. Any future offers of exchange involving any Additional Funds will be subjected to the representations and conditions described in this application.

5. In the event that Applicants modify or terminate the exchange privilege, notice of the modification or termination will be provided to the shareholders of the Funds in writing not less than 60 days in advance of such modification or termination (unless the modification is to reduce the administrative fee). The Funds will disclose the right to modify or terminate the exchange privilege in their prospectuses. Prior to any future modification (but not termination) of the exchange privilege, Applicant will apply to the Commission for an amendment of the order requested by this application.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G.Katz,

Secretary.

[FR Doc. 88-27058 Filed 11-22-88; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16640 (811-3945)]

Principal Preservation Tax-Exempt Fund, Inc.; Application

November 17, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Principal Preservation Tax-Exempt Fund, Inc.

Relevant 1940 Act Section: Section 8(f) and Rule 8f-1 thereunder.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investement company.

Filing Date: The application was filed on June 22, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 12, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington DC 20549; Applicant, 215 North Main Street, West Bend, WI 53095.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst (202) 272-3420, or Brion R. Thompson, Branch Chief, (202) 272-3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch in person, or the SEC's commercial copier, (800) 231-3282 (in Maryland, (301) 258-4300).

Applicant's Representations

1. On January 19, 1984, Applicant filed Form N-8A to register under the 1940

Act as an open-end, diversified management investment company. On January 19, 1984, Applicant also filed Form N–1 pursuant to the Securities Act of 1933, which registration statement became effective on May 11, 1984, the date upon which the initial public offering of Applicant's shares commenced. Applicant was organized as a Maryland corporation.

2. On January 23, 1987, Applicant's Board of Directors unanimously approved its Agreement and Plan of Merger (the "Plan") and recommended its submission to Applicant's stockholders. At the annual meeting held on May 22, 1987, a majority of Applicant's stockholders approved the Plan. Pursuant to the Plan, on July 23, 1987, the Applicant transferred all of its assets and liabilities to the Hedged Tax-Exempt Portfolio (since renamed the Tax-Exempt Plus Portfolio) (the "Series"), a series of Principal Preservation Portfolios, Inc. (the "Fund"). The Fund was registered under the 1940 Act on August 30, 1985 (File No. 811–4401). The Series was specially designated to receive the assets and assume the liabilities of the Applicant, and prior to the merger the Series had no assets or liabilities. Applicant's net asset value on the implementation date of the Plan was $133,255,818 or $8.65 per share, and each stockholder of Applicant received in exchange an equal number of shares of common stock of the Series. No portfolio securities were sold and no brokerage commissions were paid during the implementation of the Plan.

3. Fees and expenses associated with implementing the Plan aggregated approximately $38,000, including legal, accounting, registration fees and distribution of proxy materials. The expenses were allocated between the Applicant and the various series of the Fund on the basis of average net asset value, except that expenses associated with the preparation, printing and distribution of proxy materials were allocated on the basis of shareholders of record. This resulted in approximately $28,700 of fees and expenses being borne by the Applicant.

4. Pursuant to the Plan, the investment adviser, distribution, custodian and transfer and dividend disbursing agent agreements and the policies and plans of Applicant continued in full force and effect with respect to the assets of the Series after the merger.

5. Applicant has no shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not engaged, nor does it propose to engage in any business activities other than those necessary to wind up its affairs.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88–27060 Filed 11–22–88; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–16641; (811–4785)]

Principal Preservation Tax-Exempt Portfolios, Inc.; Application

November 17, 1988.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Principal Preservation Tax-Exempt Portfolios, Inc.

Relevant 1940 Act Section: Section 8(f) and Rule 8f–1 thereunder.

Summary of Application: Applicant seeks an order declaring that it has ceased to be an investment company.

Filing Date: The application was filed on June 22, 1988.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on December 12, 1988. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549; Applicant, 215 North Main Street, West Bend, WI 53095.

FOR FURTHER INFORMATION CONTACT: Paul J. Heaney, Financial Analyst (202) 272–3420, or Brion R. Thompson, Branch Chief (202) 272–3016 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231–3282 (in Maryland (301) 258–4300).

Applicant's Representations

1. On July 31, 1986, Applicant filed Form N–8A to register under the 1940 Act as an open-end, diversified management investment company. On July 31, 1986, Applicant also filed Form N–1A pursuant to the Securities Act of 1933, which registration statement became effective on September 23, 1986, the date upon which the initial public offering of Applicant's shares commenced. Applicant was organized as a Maryland corporation.

2. On January 23, 1987, Applicant's Board of Directors unanimously approved its Agreement and Plan of Merger (the "Plan") and recommended its submission to Applicant's stockholders. At the annual meeting held on May 22, 1987, a majority of Applicant's stockholders approved the Plan. Pursuant to the Plan, on July 23, 1987, the Applicant transferred all of its assets and liabilities to the Insured Tax-Exempt Plus Portfolio (the "Series"), a series of Principal Preservation Portfolios, Inc. (the "Fund"). The Fund was registered under the 1940 Act on August 30, 1985 (File No. 811–4401). The Series was specially designated to receive the assets and assume the liabilities of the Applicant, and prior to the merger the Series had no assets or liabilities. Applicant's net asset value on the implementation date of the Plan was $17,069,569 or $9.21 per share, and each stockholder of Applicant received in exchange an equal number of shares of common stock of the Series. No portfolio securities were sold and no brokerage commissions were paid during the implementation of the Plan.

3. Fees and expenses associated with implementing the Plan aggregated approximately $16,000, including legal, accounting, registration fees and distribution of proxy materials. The expenses were allocated between the Applicant and the various series of the Fund on the basis of average net asset value, except that expenses associated with the preparation, printing and distribution of proxy materials were allocated on the basis of shareholders of record. This resulted in approximately $6,650 of fees and expenses being borne by the Applicant.

4. Pursuant to the Plan, the investment adviser, distribution, custodian and transfer and dividend disbursing agent agreements and the policies and plans of Applicant continued in full force and effect with respect to the assets of the Series after the merger.

5. Applicant has no shareholders, assets or liabilities. Applicant is not a party to any litigation or administrative

proceeding. Applicant is not engaged, nor does it propose to engage in any business activities other than those necessary to wind up its affairs.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-27061 Filed 11-22-88; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24749]

Filings Under the Public Utility Holding Company Act of 1935 ("Act")

November 17, 1988.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by December 12, 1988 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Consolidated Natural Gas Company (70-7286)

Consolidated Natural Gas Company ("CNG"), CNG Tower, Pittsburgh, Pennsylvania 15222-3199, a registered holding company, has filed a post-effective amendment to its application-declaration filed under sections 9(a), 10 and 12(c) of the Act and Rule 42 thereunder.

By order dated October 30, 1986 (HCAR No. 24224) ("October 1986 Order"), Consolidated was authorized, through December 31, 1988, to purchase on the open market up to four million shares of its outstanding common stock, $2.75 par value per share ("Common Stock"), and to reissue from time-to-time the purchased shares which are to be held as treasury stock. In accordance with the October 1986 Order, CNG purchased through September 30, 1988 1,480,500 shares at an average price of $34.88, leaving an additional 2,519,500 authorized to be purchased, and reissued 210,600 shares of Common Stock held as treasury stock to CNG's employee benefit plans. CNG now requests an extension of its authorization to December 31, 1990 to purchase the remaining Common Stock and to reissue for general corporate purposes and in connection with employee benefit plans the treasury stock purchased pursuant to such authorization.

National Fuel Gas Company, et al. (70-7436)

National Fuel Gas Company ("National"), 30 Rockefeller Plaza, Suite 4545, New York, New York 10112, a registered holding company, and its wholly owned nonutility subsidiary, Seneca Resources Corporation ("Seneca"), 10 Lafayette Square, Buffalo, New York 14203, have filed a post-effective amendment to a declaration filed with this Commission pursuant to Sections 6(a), 7 and 12(b) of the Act and Rule 45 thereunder.

Seneca is engaged in, among other things, an oil and gas exploration program. By order dated December 23, 1987 (HCAR No. 24538), Seneca was authorized to issue and sell secured short-term notes to First Republic Bank of Houston and Citibank, N.A. ("Citibank") in an aggregate principal amount of up to $18 million from time-to-time through December 28, 1988, pursuant to a credit agreement ("Credit Agreement") with First Republic and a credit arrangement ("Credit Arrangement") with Citibank. The Credit Agreement and note held by First Republic is now owned by NCNB Texas National Bank ("NCNB-Texas").

Seneca is engaged in a joint venture ("Joint Venture") with Cashco Oil Company, a nonaffiliate company, to develop oil and gas leases. To enable the Joint Venture to develop certain oil and gas leases, Seneca issued and sold two secured master notes—one now held by NCNB-Texas under the terms of the Credit Agreement and one issued and sold under the terms of the Credit Arrangement with Citibank. Both master notes will mature on December 28, 1988 and repayment of outstanding amounts is guaranteed by National. At September 30, 1988, $14.2 million was owned to the banks by the Joint Venture. National and Seneca now state that the repayment period for such borrowings must be extended because of a decrease in hydrocarbon prices since the inception of the Joint Venture.

Accordingly, National and Seneca now seek authorization for the period from December 28, 1988 to December 27, 1989: (i) for Seneca, on behalf of the Joint Venture, to renew bank lines of credit and to issue thereunder notes, each in an aggregate principal amount of up to $16 million, and to guarantee the repayment of all amounts so borrowed; and (ii) for National to guarantee Seneca's obligations to banks and repayment of all amounts borrowed by the Joint Venture under these lines of credit. In no event will the aggregate principal amount of such short-term borrowings exceed $16 million.

Ocean State Power, et al. (70-7548)

Ocean State Power ("OSP"), 110 Tremont Street, Boston, Massachusetts 02108, a general partnership and subsidiary of EUA Ocean State Corporation ("EUA-OS") and Narragansett Energy Resources Company ("NERC"), and its indirect parent companies Eastern Utilities Associaties ("EUA"), One Liberty Square, Boston Massachusetts 02107, and New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582, registered holding companies, and Blackstone Valley Electric Company ("Blackstone"), a subsidiary of EUA, have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 40 thereunder.

OSP, in connection with its plans to construct, own and operate a combined cycle electric generating facility ("Project") to be located in Burrillville, Rhode Island, proposes to raise one hundred percent of its construction financing for the Project (approximately $246 million) through non-recourse loans from a syndicate of financial institutions, under a $240 million general construction-loan credit facility ("Credit Facility") and a $6 million interconnection facilities construction loan facility ("Loan Facility"). Irving Trust Company will be the lead agent ("Agent") to the Credit Facility. The Credit Facility will have a seven-year term, comprised of a construction-loan facility with a term of approximately two years that will convert to a term-loan facility upon the Project's achieving commercial operation. The term-loan facility is intended to provide OSP

flexibility with regard to the timing of arranging long-term, fixed-rate permanent financing with new lenders, which will be subject to further Commission approval.

The Credit Facility will be secured by a lien on all of the physical assets of the Project and by an assignment to the lenders of (i) all of OSP's rights and interests in connection with the Project under the contracts necessary for the construction and operation of the Project and specified Project insurance, (ii) all of the partners' interests in the OSP partnership, (iii) proportional guarantees' obligations (herein, EUA's and NEES' guarantees of EUA-OS and NERC obligations, respectively), under an Equity Contribution Agreement, and (iv) the Equity Contribution Agreement itself. The lenders will have the sole benefit of all of the Project security, except for certain security interests to be granted to any subsequent lenders to a second generating unit in common facilities shared by the Project and such second unit, and a security interest to be granted Tennessee Gas Pipeline Company ("Tennessee") in certain amounts paid under the power sale agreements attributable to the demand charges payable under the Tennessee gas transportation contract and proceeds thereof. The Loan Facility will be secured only by an assignment to the lenders of OSP's right to receive from Blackstone its actual costs incurred in building the interconnection facilities, which will be sold to Blackstone following the construction period and at the time that the Project achieves commercial operation.

Under the construction-loan facility, OSP may obtain fixed-rate, 30-day advances, by exercising a competitive bid option, or if the option is not exercised, or for those amounts not covered by accepted bids, OSP will pay its choice of the LIBOR plus ½% per annum, the Agent's CD rate plus ⅝% per annum or the Agent's Prime Rate plus ⅛% per annum. These rates will increase by ⅛% per annum for any amounts drawn over an aggregate amount of $220 million, and by the same percentage amount successively each time drawings occur after one of two defined reference dates. The term-loan facility employs the same base rates with margins ranging from ⅜% to ¾% on the LIBOR and CD options, plus ⅛% on the excess if borrowings exceed $110 million, but includes a provision for applying some prepayments to such excess borrowings first. Fifty percent of the outstanding amounts under the construction-loan facility will be amortized when the plant goes into commercial operation, and the remainder will convert to loans under the term-loan facility. One hundred percent of outstanding amounts under that facility will be amortized upon permanent refinancing of the debt, and prior to that quarterly on a 20-year level principal repayment schedule beginning nine months after commercial operation, with a balloon payment of at least 20%. OSP has agreed to pay an arrangement fee, a one-time participation fee of ¼% of the amount available under the Credit Facility and Loan Facility, a commitment fee of ¼% per annum on available amounts under both facilities and ⅛% per annum on unavailable amounts under the Credit Facility, a facility fee of ⅛% per annum on competitive drawings to the lenders on a *pro-rata* basis for the original commitment under both facilities, an agent's fee of $4,000 per competitive bid, plus $150,000 per annum during construction and $35,000 thereafter, which will produce an assumed effective cost of money of 10.221%.

In support of the Credit Facility, EUA and NEES propose to guarantee to the partnership the performance by EUA-OS and NERC of their obligations to make capital contributions to OSP under the Equity Contribution Agreement of up to $30 million and $25 million, respectively, as authorized by Commission order (HCAR No. 24727, October 13, 1988).

Central Coal Company (70–7551)

Centeral Coal Company ("Central"), 40 Franklin road, Roanoke, Virginia, 24022, a subsidiary of Appalachian Power Company ("Appalachian") and Ohio Power Company ("Ohio"), electric utility subsidiaries of American Electric Power Company, Inc., a registered holding company, has filed a declaration pursuant to section 12(c) of the Act and Rule 46 thereunder.

Central proposes to declare and pay to Appalachian and Ohio a dividend on its common stock in an aggregate amount of up to $2,325,000 from additional paid-in capital.

Consolidated Natural Gas Company (70–7567)

Consolidated Natural Gas Company ("CNG"), CNG Tower, Pittsburgh, Pennsylvania 15222–3199, a registered holding company, and its proposed wholly owned subsidiary, CNG Financial Services, Inc. ("Financial") have filed an application-declaration pursuant to sections 6(a), 7, 9(a), 9(c)(3), 10, 12(b) and 13(b) of the Act and Rules 45, 50(a)(5), 86, 87 and 90 thereunder.

Consolidated proposes to organize, acquire the capital stock of, and provide initial financing for a new wholly owned subsidiary, Financial. The primary business of Financial will be to take advantage of the tax savings associated with passive leveraged leasing investments.

It is proposed that Financial will, from time to time, through December 31, 1989 obtain necessary funding from Consolidated for leveraged leasing through: (a) the sale of up to 10,000 shares of Financial common stock, $10,000 par value; (b) open account advances; (c) credit agreement loans; or (d) long-term loans, in any combination of the foregoing and in such amounts that the aggregate outstanding amount so obtained from Consolidated for leveraged leasing will not any time exceed $100 million. The notes issued by Financial to Consolidated in connection with such borrowings will have the same effective terms and interest rates as related borrowings of Consolidated. If there are no corresponding outstanding loans of Consolidated, such borrowings by Financial would carry the following interest rates: open account advances, the federal funds' effective rate as quoted daily by the Federal Reserve Bank of New York; credit agreement loans, the prime commercial rate in effect from time to time at the Chase Manhattan Bank, N.A.; and long-term loans, the indicative rate for comparable debt issuances published in Salomon Brothers Inc. Bond Market Roundup dated nearest to the time of takedown.

It is proposed that Financial invest as an equity participant in leveraged leases. Through such activities, Financial will seek to improve the competitive position of Consolidated by taking advantage of available tax credits and deductions arising from ownership of the leased property. Financial weill seek an investment firm(s) ("Investment Firm") for the purpose of together forming a joint venture(s) ("Joint Venture") to invest as equity participants in leveraged leases. The Investment Firm will propose leasing transactions involving non-affiliated companies. No leases of utility assets will be effected. Financial will have the absolute right to reject any proposed transaction. The Investment Firm will be responsible for the administrative function associated with the leases, such as credit investigation, monitoring insurance coverage, maintenance of the leased property, and remarketing the property at the end of the lease terms, subject to Financial's approval.

The Joint Venture would acquire, from time to time, assets for lease to lessees with high quality credit for a term of

years on a net basis. The Joint Venture would borrow from institutional lenders, in security of the property and the lease, but without personal liability, between 50% and 80% of the cost, and receive the balance from Financial and Investment Firm in proportion to their respective equity ownership in the Joint Venture. Financial would provide up to $100 million and Investment Firm up to $25 million in equity to the Joint Venture, which would finance up to $500 million of leased property.

Central Power and Light Company (70-7572)

Central Power and Light Company ("CP&L"), P.O. Box 2121, Corpus Christi, Texas 78403, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed an application pursuant to Section 9(a) and 10 of the Act.

In April 1987, CP&L purchased a 16 story office building to serve as CP&L's corporate headquarters ("Headquarters Building"). The Headquarters Building contains approximately 237,500 square feet of office space, of which approximately 196,300 square feet are currently occupied by CP&L. Approximately 23,400 square feet of excess space on the first two floors of the Headquarters Building was designed and built for commercial and retail uses and cannot be effectively used by CP&L. In addition, approximately 18,500 square feet of space on the third floor, portions of the fourth floor, basement and roof of the Headquarters Building are not occupied by CP&L and, it is stated, will not be required until some time in the future. CP&L states that it intends to ultimately occupy all but the first two floors of its Headquarters Building. CP&L thus seeks authorization to lease to nonaffiliate third parties this excess space until such time as that space is needed by CP&L.

CP&L also seeks authority to lease one of its former office buildings ("Office Building") to third parties, at or near the market rates at the time such leases are entered into, until such time as CP&L can effect a sale of this building.

Middle South Utilities, Inc. et al. (70-7575)

Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, Louisiana 70112, a registered holding company, its service company subsidiary, MSU System Services, Inc. ("Services"), 639 Loyola Avenue, New Orleans, Louisiana 70113, Arkansas Power & Light Company ("Arkansas"), 425 West Capitol, 40th Floor, Little Rock, Arkansas 72201, Louisiana Power & Light Company ("Louisiana"), 142 Delaronde Street, New Orleans, Louisiana 70114, Mississippi Power & Light Company ("Mississippi"), P.O. Box 1640, Jackson Mississippi 39215-1640 and New Orleans Public Service Inc. ("New Orleans"), 317 Baronne Street, New Orleans, Louisiana 70112, each an operating subsidiary of Middle South (collectively, "Operating Companies"), the Operating Companies" fuel supply subsidiary, System Fuels, Inc. ("SFI"), 639 Loyola Avenue, New Orleans, Louisiana 70113 and System Energy Resources, Inc. ("System Energy"), One Jackson Place, 188 Capitol Street, Jackson, Mississippi 39201, Middle South's generating company subsidiary, have filed an application-declaration pursuant to Sections 6(a), 7, 9(a), 10, 12(b) and 12(f) of the Act and Rules 43, 45 and 50(a)(5) thereunder.

By orders dated December 30, 1985 (HCAR NO. 23967) and December 17, 1986 (HCAR No. 24266) the Operating Companies and System Energy were authorized to make short-term borrowings and invest in a system money pool ("Pool"), and to issue and sell short-term notes to banks and to commercial paper dealers through December 31, 1988. In addition, Middle South, Services, System Fuels, and System Energy, were authorized, through December 31, 1988, to participate in the Pool to the extent provided in those orders.

It is now proposed that, during the period ending December 31, 1990, the Operating Companies and System Energy continue to meet their interim capital needs through borrowings from the Pool and the issuance and sale of short-term notices to banks and commercial paper dealers. Total outstanding short-term borrowings so proposed to be made by each of the Operating Companies and System Energy during this period would not exceed 10% of the sum of (a) the total principal amount of all bonds or other securities representing secured indebtedness issued or assumed by an Operating Company or System Energy and then outstanding and (b) the capital and surplus of the Operating Company or System Energy as then stated on its books of account, subject, in the case of System Energy, to compliance with any further restrictions on short-term borrowings from time to time in effect in its other credit arrangements. Total borrowings through the Pool by Services and SFI would not exceed, at any one time outstanding, amounts equal to the aggregate unused portion of back-up lines of credit then available to the companies. Middle South may lend to the Pool, but not borrow therefrom.

With respect to its participation in the Pool as a borrower, System Energy's existing credit arrangements currently require (absent waivers) that in the event of a default by System Energy under such credit arrangements or of insolvency, bankruptcy, liquidation, reorganization or other similar proceedings affecting System Energy, no payment by System Energy would be permitted on account of principal or interest upon Pool borrowings until all obligations under such credit arrangements were provided for or paid. Prior to the occurrence of any such default or proceeding, System Energy would be permittedf to make payments of principal and interest on account of its Pool borrowings. System Energy's existing bank loan agreements currently limit the amount it may invest through the Pool to up to $10,000,000 at any one time.

Funds in the Pool will first be made available for lending to the Operating Companies and System Energy on an equal allocation basis. Services and SFI will borrow only after the daily needs of the Operating Companies and System Energy have been satisified.

Services, as administrator of the Pool, will invest funds remaining in the Pool after satisfaction of the borrowing needs of the participants, and allocate the earnings among the participants providing the excess funds on a *pro rata* basis in accordance with their respective interests in the funds.

Arkansas, Louisiana, Mississippi, New Orleans and System Energy propose to issue unsecured short-term notes ("Notes") to various commercial banks either under individuals lines of credit or under consolidated "either/or" lines available for use by one or more of the Operating Companies and System Energy. The Notes will be payable either on demand of the lending bank or not more than one year from the date of issuance, and will bear interest at a rate per annum generally no greater than 1.5 percent over the prime commercial bank rate in effect on the date of the issuance or renewal or from time to time, depending upon the arrangements with the lending bank; provided that, under certain circumstances, the rate of interest on the Notes may be based upon other market rates or indices such that the rate may exceed, for certain brief periods and within certain parameters approved by the Commission, the above-described maximum rate of interest.

An exception from the competitive bidding requirements of Rule 50 has

been requested for the proposed issuance of commercial paper.

Yankee Atomic Electric Company (70-7577)

Yankee Atomic Electric Company ("Yankee"), 580 Main Street, Boston, Massachusetts 01740, an electric utility subsidiary of New England Electric System and Northeast Utilities, registered holding companies, has filed a declaration pursuant to sections 6(a) and 7 of the Act and Rule 50(a)(5) thereunder.

Yankee proposes to issue and sell, through December 31, 1990, short-term promissory notes and commercial paper up to a maximum aggregate amount to be outstanding at any one time of $25 million. The notes are expected to be sold to (i) The Bank of Nova Scotia ("BNS") or The Bank of Nova Scotia International Limited ("BNS-Nassau"), or both; and (ii) National Westminster Bank USA ("Nat West"). In addition, Yankee proposes to issue and sell commercial paper to Merrill Lynch Money Markets, Incorporated, Shearson Lehman Commercial Paper Incorporated, and First Boston Corporation, dealers in commercial paper (collectively, "Dealers").

Under an Operating/Standby Credit Agreement ("Agreement") between Yankee and BNS/BNS-Nassau, proposed borrowings of up to $20 million will be evidenced by a note payable maturing in less than twelve months from the date of issuance. Borrowings shall bear interest at a rate per annum, which shall be equal to either BNS's base rate or ½ of 1% above BSN-Nassau's one, two, three, six, or nine-month LIBO Rate depending on the maturity of the borrowing as may be determined from time to time by Yankee. On a monthly basis, Yankee is to pay a standby fee equal to ¼ of 1% per annum on the average daily unused portion of the line of credit under said Agreement.

Under a Promissory Note Agreement between Yankee and Nat West, Yankee may borrow up to $5 million for a maximum term of nine months. Loans made by Nat West shall bear interest at a rate per annum which is equal to the lowest of (i) Nat West's prime rate, (ii) ⅝ of 1% in excess of Nat West's 90-day certificate of deposit rate, or (iii) ½ of 1% in excess of Nat West's one, two, three, six, or nine-month LIBO Rate. On a quarterly basis, Yankee is to pay a commitment fee of ⅜ of 1% per annum on the average daily unused portion of the note.

Southwestern Electric Power Company (70-7578)

Southwestern Electric Power Company ("SWEPCO"), 428 Travis Street, Shreveport, Louisiana 71156, a subsidiary of Central and South West Corporation, a registered holding company, has filed a declaration pursuant to section 12(d) of the Act and Rule 44 thereunder.

SWEPCO has requested authority to sell 2,882 utility poles located in Caddo and Bossier Parishes, Louisiana, to South Central Bell Telephone Company ("South Central Bell"). The proposed sale will be made pursuant to an allocation agreement between SWEPCO and South Central Bell which provides for the maintenance of equalization in the number of pole contracts between the companies in areas served by both. It is anticipated that proceeds from the proposed sale will be added to SWEPCO's general operating funds.

Eastern Edison Company, et al. (70-7579)

Eastern Edison Company ("Eastern"), 110 Mulberry Streety, Brockton, Massachusetts 02403, Montaup Electric Company ("Montaup"), P.O. Box 2333, Boston, Massachusetts 02107, Blackstone Valley Electric Company ("Blackstone"), Washington Highway, P.O. Box 1111, Lincoln, Rhode Island 02865, and EUA Service Corporation ("Service"), P.O. Box 2333, Boston, Massachusetts 02107, ("collectively, Subsidiaries"), subsidiaries of Eastern Utilities Associates, a registered holding company, have filed a declaration pursuant to sections 6 and 7 of the Act.

The Subsidiaries propose to issue and sell short-term notes to banks, from time to time during the period from December 28, 1988, to December 27, 1989, in aggregate amounts outstanding at any one time not to exceed $45 million for Eastern, $40 million for Montaup, $14 million for Blackstone and $5 million for Service.

Each note will be dated the date of issuance and will mature no later than September 30, 1990. Some notes will bear interest at a floating prime rate, have maximum maturities of nine months, and be prepayable at any time without premium. Other notes will bear interest at available money market rates, in all cases less than the prime rate at the time of issuance, will have maximum maturities of nine months, and will not be prepayable.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 88-27145 Filed 11-22-88; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Region V Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration, Region V Advisory Council, located in the geographical area of Indianapolis, will hold a public meeting at 9:30 a.m. on Tuesday, December 6, 1988, at North Meridian Inn, 1530 North Meridian, Indianapolis, Indiana, to discuss such matters as may be presented by members, staff of the Small Business Administration and others present.

For further information, write or call Robert D. General, District Director, U.S. Small Business Administration, Minton-Capehart Federal Building, Room 578, 575 North Pennsylvania Street, Indianapolis, Indiana 46204-1584, 317/226-7275.

Jean M. Nowak,

Director, Office of Advisory Councils.

November 16, 1988.

[FR Doc. 88-27044 Filed 11-22-88; 8:45 am]

BILLING CODE 8025-01-M

Region V Advisory Council; Public Meeting

The U.S. Small Business Administration, Region V Advisory Council, located in the geographical area of Cleveland, will hold a public meeting, at 10:00 a.m. Friday, December 9, 1988, at Cuyahoga Community College, B&A Room 210, 2900 Community College Avenue, Cleveland, Ohio 44115, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call S. Charles Hemming, District Director, U.S. Small Business Administration, 1240 East Ninth Street, Room 317, Cleveland, Ohio 44199, 216/522-4182

Jean M. Nowak,

Director, Office of Advisory Councils

November 16, 1988.

[FR Doc. 88-27045 Filed 11-22-88; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/1235]

U.S. Organizations for the International Consultative Committees on Radio (CCIR) and Telegraph and Telephone (CCITT); Meeting

The Department of State announces that there will be joint meeting of the National Committees of the International Radio Consultative Committee (CCIR) and the International Telegraph and Telephone Consultative Committee (CCITT) on December 15, 1988 at 10:00 a.m. and continue until approximately 4:00 p.m. in Room 1912, Department of State, 2201 C Street, NW., Washington, DC.

The National Committees provide service on matters of policy and positions in preparation for the respective Plenary Assemblies and international Study Groups meetings, as well as on a broad range of matters relating to the International Telecommunication Union (ITU) in general. The ITU will convene a Plenipotentiary Conference in May, 1989 which will consider issues of considerable interest to U.S. CCIR and CCITT participants.

The main purposes of the meeting will be to:

1. Report on national preparations for the Plenipotentiary;

2. Discussion of specific issues of interest to the CCIs;

3. Consideration of future activities.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Mr. Earl S. Barbely, Department of State, Washington, DC; telephone (202) 647-5220. All attendees must use the C Street entrance to the building.

Date: November 4, 1988.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 88-27096 Filed 11-22-88; 8:45 am]

BILLING CODE 4710-07-M

Overseas Schools Advisory Council; Meeting

The Overseas Schools Advisory Council, Department of State, will hold its Executive Committee meeting on Wednesday, January 18, 1989, at 9:30 a.m. in Conference Room 1107, Department of State Building, 2201 C Street, NW., Washington, DC. The meeting is open to the public.

Agenda items scheduled for discussion are as follows:

I. Council Program of Educational Assistance:

(a) Final Reports of 1987 Program and Initial Report on 1988 Program.

(b) Council's efforts in Securing Contributions for 1988 Program.

(c) Recommendations of Council's Evaluation Committee Regarding Projects Submitted by Regional Overseas Schools Associated for 1989 Program.

(d) Report of the Subcommittee to Increase the Participation of U.S. Corporations and Foundations in Council 1989 Program.

II. New Education Agenda for the New Administration.

III. Initial Results of Surveys Concerning Schools Fund-Raising Drives and Activities of Overseas Schools Regional Associations.

IV. Recommendations of the Subcommittee to Increase U.S. Firms Participation in American-Sponsored Overseas Schools Activities.

V. Council's Communication with U.S. Corporations and Foundations.

VI. Selection of Date of Council's Annual Meeting.

Access to the State Department is controlled. Members of the public desiring to attend the meeting may write to the Overseas Schools Advisory Council, Department of State, Room 234, SA-6, Washington, DC 20520 or telephone Ms. Joyce Bruce on area code 703-875-6220, prior to January 18. The public may participate in discussions at the Chairman's instructions.

Date: November 3, 1988.

Ernest N. Mannino,

Executive Secretary, Overseas Schools Advisory Council.

[FR Doc. 88-27097 Filed 11-22-88; 8:45 am]

BILLING CODE 4710-24-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; U.S. 97, Deschutes County, OR

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Deschutes County, Oregon.

FOR FURTHER INFORMATION CONTACT: Elton Chang, Environmental Coordinator and Safety Programs Engineer, Federal Highway Administration, Equitable Center, Suite 100, 530 Center NE., Salem, Oregon 97301, Telephone: (503) 399-5749.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Oregon Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to improve U.S. Route 97 (U.S. 97) in Deschutes County, Oregon. The proposed improvement would improve U.S. 97 through or near the City of Bend for a distance of about 4 to 8 miles, depending on the alternative. Improvements to U.S. 97 in the Bend vicinity are considered necessary to provide for the existing and projected traffic demand.

Alternatives under consideration include (1) taking no action, (2) converting Division Street to a 4-lane expressway, (3) widening the existing U.S. 97, (4) improving existing city streets to serve with the existing U.S. 97 as a couplet, and (5) constructing a limited access highway on a new location, including both east and west bypasses. Design variations of grade, alignment, and access restrictions will be studied with various build alternatives.

Information describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public meetings will be held during project development. In addition, a public hearing will be held. Public notice will be given of the time and place of the meetings and hearing. the draft EIS will be available for public and agency review and comment prior to the public hearing. No formal scoping meeting is planned at this time.

To ensure that the full range of issues related to this proposed action is addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs" apply to this program.)

Issued on: November 14, 1988.

Elton H. Chang,

Environment Coordinator/Safety Program Engineer, Oregon Division, Salem, Oregon.

[FR Doc. 88-27098 Filed 11-22-88; 8:45 am]

BILLING CODE 4910-22-M

[FHWA Docket No. MC-88-17]

Driver Fatigue Research; Public Meeting

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meeting.

SUMMARY: The FHWA's Office of Motor Carriers announces a public meeting to solicit comments and recommendations from interested persons on areas that need to be considered when studying truck and bus driver fatigue. The meeting will include presentations from experts from the motor carrier industry, academic and private research organizations, and government agencies on such subject areas as behavioral and physiological considerations, sleep and shift work and vehicle design effects, and noise, shock, and vibration factors. In addition, all attendees are invited to share their views on these and other subjects related to driver fatigue and to make recommendations on the areas that need to be studied before the FHWA proposes any changes to the Federal regulations pertaining to hours of service.

Because space will be limited at the sessions, those wishing to speak should contact Ms. Lois Bossman or Ms. Lana Agnew at the DOT Transportation Systems Center in Cambridge, Massachusetts, (telephone 671-494-2307 or 2034).

The public symposium is scheduled for November 29 and 30, 1988 from 9 a.m. until 5 p.m. on both days, and will be held in room 2230, 400 Seventh St. SW., Washington, DC 20590.

A docket has been established to receive comments from persons unable to attend the meeting. Persons unable to attend may submit written comments to Docket No. MC-88-17, Room 4232, HCC-10, Office of Chief Counsel, 400 Seventh St. SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Hamilton, Office of Motor Carriers, 400 Seventh St. SW., Washington, DC 20590, (202) 366-0665. Office hours are from 8:00 a.m. to 4:30 p.m. ET, Monday through Friday, except legal holidays.

Issued: November 17, 1988.

R.D. Morgan,

Executive Director, Federal Highway Administration.

[FR Doc. 88-27127 Filed 11-22-88; 8:45 am]

BILLING CODE 4910-22-M

Urban Mass Transportation Administration

UMTA Sections 3 and 9 Grant Obligations

AGENCY: Urban Mass Transportation Administration (UMTA), DOT.

ACTION: Notice.

SUMMARY: The Department of Transportation and Related Agencies Appropriations Act. 1988, included in the Omnibus Approriations Act, Pub. L. 100-202 signed into law by President Reagan on December 22, 1987, contained a provision requiring the Urban Mass Transportation Administration to publish an announcement in the **Federal Register** each time a grant is obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended. The statute requires that the announcement include the grant number, the grant amount, and the transit property receiving each grant.

This notice provides the information as required by statute.

FOR FURTHER INFORMATION CONTACT: Edward R. Fleischman, Chief, Resource Management Division, Department of Transportation, Urban Mass Transportation Administration, Office of Grants Management, 400 Seventh Street, SW., Room 9305, Washington, DC 20590. (202) 366-2053.

SUPPLEMENTARY INFORMATION: The section 3 program was established by the Urban Mass Transportation Act of 1964 to provide capital assistance to eligible recipients in urban areas. Funding for this program is distributed on a discretionary basis. The section 9 formula program was established by the Surface Transportation Assistance Act of 1982. Funds appropriated to this program are allocated on a formula basis to provide capital and operating assistance in urbanized areas. Pursuant to the statute UMTA reports the following grant information:

SECTION 3 GRANTS

Transit property	Grant No.	Grant amount	Grant obligated
City of Phoenix, Phoenix, AZ	AZ-03-0013	$2,441,505	9-30-88
Southern California Rapid Transit District Los Angeles, CA	CA-03-0130-09	96,271,485	9-30-88
California Department of Transportation, San Francisco, CA	CA-03-0315	11,284,950	9-01-88
Bay Area Rapid Transit District, San Francisco, CA	CA-03-0335	12,480,750	9-30-88
Bay Area Rapid Transit District, San Francisco, CA	CA-03-3500	3,420,017	9-27-88
San Francisco Municipal Railroad, San Francisco, CA	CA-03-0333	9,849,375	9-30-88
Chicago Transit Authority, Chicago, IL	IL-03-0135	100,756,500	9-23-88
Commuter Rail Division of the Regional Transportation Authority, Chicago, IL	IL-03-0133-01	16,171,500	9-30-88
Commuter Rail Division of the Regional Transportation Authority, Chicago, IL	IL-03-0141	8,888,250	9-30-88
Commuter Rail Division of the Regional Transportation Authority, Chicago, IL	IL-03-0131	11,250,000	9-30-88
City of Indianapolis, Indianapolis, IN	IN-03-0058	800,000	9-30-88
Iowa Department of Transportation, Rural, IA	IA-03-0057	4,701,952	9-30-88
Kentucky Transportation Cabinet, Frankfort, KY	KY-03-0021	284,775	9-30-88
Brockton Area Transit Authority, Brockton, MA	MA-03-0151	1,058,400	9-30-88
Greater Portland Transit District, Portland, ME	ME-03-0025	924,000	9-30-88
Maine Department of Transportation, Rural, ME	ME-03-0024	2,048,700	9-30-88
Mass Transit Administration, Baltimore, MD	MD-03-0035	750,000	9-30-88
Michigan Department of Transportation Rural, MI	MI-03-0116	4,532,724	9-30-88
Nassau County, New York, NY	NY-03-0224-01	1,403,676	9-30-88
Suffolk County, New York, NY	NY-03-0233	3,630,000	9-30-88

SECTION 3 GRANTS—Continued

Transit property	Grant No.	Grant amount	Grant obligated
Metropolitan Transportation Authority, New York, NY	NY-03-0238	1,852,500	9-30-88
Town of Huntington, New York, NY	NY-03-0235	375,000	9-30-88
Metropolitan Transportation Authority, New York, NY	NY-03-0220	12,059,025	9-30-88
Greater Cleveland Regional Transit Authority, Cleveland, OH	OH-03-0099	7,560,000	9-30-88
Greater Cleveland Regional Transit Authority, Cleveland, OH	OH-03-0097	16,212,000	9-30-88
Akron Metropolitan Regional Transit Authority, Akron, OH	OH-03-0098	120,000	9-30-88
Akron Metropolitan Regional Transit Authority, Akron, OH	OH-03-0096	1,375,500	9-30-88
Delaware River Port Authority of Pennsylvania and New Jersey, Philadelphia, PA	NJ-03-0075	21,900,000	9-30-88
Southeastern Pennsylvania Transportation Authority, Philadelphia, PA	PA-03-0195-01	7,125,000	9-30-88
Southeastern Pennsylvania Transportation Authority, Philadelphia, PA	PA-03-0202	5,700,000	9-30-88
City of Philadelphia, Philadelphia, Pa	PA-03-0148-01	2,850,000	9-30-88
Southeastern Pennsylvania Transportation Authority, Philadelphia, PA	PA-03-0168-01	11,250,000	9-30-88
Southeastern Pennsylvania Transportation Authority, Philadelphia, PA	PA-03-0194	7,875,000	9-30-88
Southeastern Pennsylvania Transportation Authority, Philadelphia, PA	PA-03-0190-01	11,250,000	9-30-88
South Carolina Department of Highways and Public Transportation, Columbia, SC	SC-03-0005	3,115,284	9-30-88
Dallas Area Rapid Transit Authority, Dallas, TX	TX-03-0122	11,126,250	9-30-88
Metropolitan Transit Authority, Houston, TX	TX-03-0119-01	31,160,000	9-30-88
Northern Virginia Transportation Commission, Washington, DC	VA-03-0035	750,000	9-30-88

SECTION 9 GRANTS

Transit property	Grant No.	Grant amount	Date obligated
City of Huntsville, Huntsville, AL	AL-90-X035	$408,667	9-29-88
Mobile Transit Authority, Mobile, AL	AL-90-X034	2,075,227	9-29-88
Central Arkansas Transit Authority, Little Rock, AR	AR-90-X015	698,658	9-30-88
Arkansas State Highway and Transportation Department, Little Rock, AR	AR-90-X014	93,250	9-30-88
City of Tucson, Tucson, AZ	AZ-90-X020	388,000	9-30-88
Santa Clara County Transportation Agency, San Jose, CA	CA-90-X044-05	3,901,960	9-30-88
City of Laguna Beach, Los Angeles, CA	CA-90-X291	206,000	9-30-88
City of Fairfield, Fairfield, CA	CA-90-X292	577,191	9-30-88
City of Merced, Merced, CA	CA-90-X295	554,377	9-30-88
City of Simi Valley, Simi Valley, CA	CA-90-X305	684,200	9-30-88
South Coast Area Transit, Oxnard/Ventura, CA	CA-90-X306	2,749,541	9-30-88
City of Gardena, Los Angeles, CA	CA-90-X310	311,200	9-30-88
San Diego Association of Governments, San Diego, CA	CA-90-X309	400,000	9-30-88
Southern California Rapid Transit District, Los Angeles, CA	CA-90-X283-01	22,511,000	9-30-88
Santa Clara County Transit District, San Jose, CA	CA-90-X284-01	569,697	9-30-88
Hub Area Transit Authority, Yuba City, CA	CA-90-X307	370,000	9-30-88
City of Arcadia, Los Angeles, CA	CA-90-X308	84,000	9-30-88
City of Pueblo, Pueblo, CO	CO-90-X043	473,698	9-30-88
Capitol Region Council of Governments, Hartford, CT	CT-90-X125	47,200	9-30-88
Central Connecticut Regional Planning Agency, New Britain, CT	CT-90-X119	7,952	9-30-88
Greater Waterbury Transit District, Waterbury, CT	CT-90-X122	136,000	9-30-88
Norwalk Transit District, Norwalk, CT	CT-90-X123	154,429	9-30-88
Middletown Transit District, Hartford, CT	CT-90-X120	215,980	9-30-88
Connecticut Department of Transportation, Hartford, CT	CT-90-X114	2,196,332	9-30-88
Housatonic Area Regional Transit District, Danbury, CT	CT-90-X124	200,000	9-30-88
City of Stamford, Stamford, CT	CT-90-X121	130,077	9-30-88
Pinellas Suncoast Transit Authority, St. Petersburg, FL	FL-90-X116	3,942,919	9-26-88
Hillsborough Area Regional Transit Authority, Tampa, FL	FL-90-X106-01	2,400,000	9-26-88
Consolidated Government of Columbus, Columbus, GA	GA-90-X036-01	116,416	9-29-88
Douglas County Board of County Commissioners, Atlanta, GA	GA-90-X045	75,200	9-26-88
Georgia Department of Transportation, Atlanta, GA	GA-90-X046	4,476,650	9-26-88
Metropolitan Transit Authority of Black Hawk County, Waterloo, IA	IA-90-X097	174,000	9-30-88
City of Davenport, Davenport, IA	IA-90-X096	81,460	9-30-88
Pocatello Urban Transit, Pocatello, ID	ID-90-X016	377,673	9-30-88
Pace, Chicago, IL	IL-90-X125	489,600	9-30-88
Chicago Transit Authority, Chicago, IL	IL-90-X128	52,466,148	9-30-88
City of Danville, Danville, IL	IL-90-X124	410,000	9-30-88
Commuter Rail Division of the Regional Transportation Authority, Chicago, IL	IL-90-X123	31,611,578	9-30-88
Greater Peoria Mass Transit District, Peoria, IL	IL-90-X116	1,304,640	9-30-88
Springfield Mass Transit District, Springfield, IL	IL-90-X121	1,820,000	9-30-88
Pace, Chicago, IL	IL-90-X126	11,997,165	9-30-88
Heart City Rider, Elkhart-Goshen, IN	IN-90-X112	353,851	9-30-88
Metropolitan Evansville Transit System, Evansville, IN	IN-90-X111	1,159,840	9-30-88
Topeka Metropolitan Transit Authority, Topeka, KS	KS-90-X031	656,080	9-30-88
Wichita Metropolitan Transit Authority, Wichita, KS	KS-90-X032	676,400	9-30-88
Wichita Metropolitan Transit Authority, Wichita, KS	KS-90-X033	460,750	9-30-88
Wichita Metropolitan Transit Authority, Wichita, KS	KS-90-X034	20,000	9-30-88
City of Monroe, Monroe, LA	LA-90-X083	920,994	9-30-88
City of Alexandria, Alexandria, LA	LA-90-X084	701,660	9-30-88
Jefferson Parish, New Orleans, LA	LA-90-X087	1,806,729	9-30-88
City of Lake Charles, Lake Charles, LA	LA-90-X082	274,580	9-30-88
City of Lafayette, Lafayette, LA	LA-90-X085	500,000	9-30-88
City of Lafayette, Lafayette, LA	LA-90-X062-02	6,330	9-30-88

SECTION 9 GRANTS—Continued

Transit property	Grant No.	Grant amount	Date obligated
St. Bernard Parish, New Orleans, LA	LA-90-X088	222,800	9-30-88
Regional Transit Authority, New Orleans, LA	LA-90-X019-02	6,857,812	9-30-88
Louisiana Dept. of Transp. and Development, New Orleans, LA	LA-90-X086	682,218	9-30-88
Worcester Regional Transit Authority, Worcester, MA	MA-90-X077-01	178,400	9-30-88
Greater Attleboro-Taunton Regional Transit Authority, Providence, MA	MA-90-X083-01	530,000	9-30-88
Lowell Regional Transit Authority, Lowell, MA	MA-90-X075-01	65,688	9-30-88
Brockton Area Transit Authority, Brockton, MA	MA-90-X081-01	49,168	9-30-88
Mass Transit Administration, Baltimore, MD	MD-90-X036	536,635	9-26-88
Maine Department of Transportation, Statewide, ME	ME-90-X036-01	697,448	9-30-88
Maine Department of Transportation, Statewide, ME	ME-90-X038	43,440	9-30-88
Lewiston-Auburn Transit Committee, Lewiston-Auburn, ME	ME-90-X037	34,680	9-30-88
Muskegon Area Transit System, Muskegon, MI	MI-90-X104	596,656	9-30-88
City of Rochester, Rochester, MN	MN-90-X034	470,143	9-30-88
City of Columbia, Columbia, MO	MO-90-X037-01	52,705	9-30-88
City Utilities of Springfield, Springfield, MO	MO-90-X050	561,008	9-30-88
City of St. Joseph, St. Joseph, MO	MO-90-X049	601,577	9-30-88
Gulf Regional Planning Commission, Gulfport, MS	MS-90-X020-01	22,000	9-29-88
City of Jackson, Jackson, MS	MS-90-X023	1,635,200	9-26-88
Central Mississippi Planning and Development District, Jackson, MS	MS-90-X022	96,316	9-29-88
City of Billings, Billings, MT	MT-90-X022	653,082	9-30-88
Winston-Salem Transit Authority, Winston-Salem, NC	NC-90-X085	1,489,643	9-29-88
Wilmington Transit Authority, Wilmington, NC	NC-90-X083	1,815,507	9-26-88
Capitol Area Transit, Raleigh, NC	NC-90-X075-01	264,000	9-30-88
Wilmington Transit Authority, Wilmington, NC	NC-90-X066-01	26,100	9-26-88
Gastonia Transit, Gastonia, NC	NC-90-X081	253,979	9-26-88
Chapel Hill Transit, Durham, NC	NC-90-X072-01	120,000	8-8-88
Chapel Hill Transit, Durham, NC	NC-90-X082	1,929,085	9-30-88
Greensboro Agency Transp. Express, Inc., Greensboro, NC	NC-90-X080	346,440	9-26-88
Metro Area Transit, Omaha, NE	NE-90-X018	88,000	9-30-88
City of Nashua, Nashua, NH	NH-90-X018	472,964	9-30-88
Cooperative Alliance for Seacoast Transportation, Portsmouth-Dover-Rochester, NH	NH-90-X015-01	70,000	9-30-88
Cooperative Alliance for Seacoast Transportation, Portsmouth-Dover-Rochester, NH	NH-90-X017	506,705	9-30-88
City of Albuquerque, Albuquerque, NM	NM-90-X022	1,591,173	9-30-88
Putnam County, New York, NY	NY-90-X124-01	242,800	9-30-88
Putnam County, New York, NY	NY-90-X139	89,933	9-30-88
City of Rome, Rome, NY	NY-90-X141	192,010	9-23-88
Rockland County, New York, NY	NY-90-X142	1,092,036	9-30-88
Suffolk County, New York, NY	NY-90-X143	3,146,990	9-30-88
New York City Department of Transportation, New York, NY	NY-90-X144	24,377,973	9-30-88
Central New York Regional Transportation Authority, Syracuse, NY	NY-90-X145	3,219,359	9-30-88
Town of Huntington, New York, NY	NY-90-X147	337,857	9-30-88
Canton Regional Transit Authority, Canton, OH	OH-90-X108	320,000	9-30-88
Southwest Ohio Regional Transit Authority, Cincinnati, OH	OH-90-X092-01	366,851	9-30-88
Canton Regional Transit Authority, Canton, OH	OH-90-X105	48,800	9-30-88
Akron Metro Regional Transit Authority, Akron, OH	OH-90-X084-01	2,372,910	9-30-88
Ohio Department of Transportation, Columbus, OH	OH-90-X106	3,463,948	9-30-88
Central Ohio Transit Authority, Columbus, OH	OH-90-X107	2,560,000	9-30-88
Lorain County Transit Board, Lorain, OH	OH-90-X104	790,500	9-30-88
Central Oklahoma Transportation and Parking Authority, Oklahoma City, OK	OK-90-X026	169,368	9-30-88
Metropolitan Tulsa Transit Authority, Tulsa, OK	OK-90-X024	597,401	9-30-88
Enid Public Transportation Authority, Enid, OK	OK-90-X025	317,000	9-30-88
Cumberland-Dauphin-Harrisburg Transit Authority, Harrisburg, PA	PA-90-X150	1,182,139	9-26-88
Red Rose Transit Authority, Lancaster, PA	PA-90-X152	929,800	9-26-88
Beaver County Transit Authority, Pittsburgh, PA	PA-90-X087-02	607,200	9-30-88
City of Sharon, Sharon, PA	PA-90-X153	115,000	9-26-88
Southeastern Pennsylvania Transportation Authority, Philadelphia, PA	PA-90-X151	36,620,964	9-30-88
Luzerne County Transportation Authority, Scranton, PA	PA-90-X154	1,422,984	9-30-88
Municipality of Canovanas, San Juan, PR	PR-90-X032-01	318,776	9-29-88
Municipality of Loiza, San Juan, PR	PR-90-X014-01	96,000	9-29-88
Municipality of Mayaguez, Mayaguez, PR	PR-90-X041	120,000	9-29-88
Department of Transportation and Public Works, San Juan, PR	PR-90-X011-03	4,260,000	9-29-88
Municipality of Toa Alta, San Juan, PR	PR-90-X042	212,500	9-29-88
Municipality of Vega Baja, Vega Baja, PR	PR-90-X024-01	1,159,124	9-29-88
Rhode Island Department of Transportation, Providence, RI	RI-90-X011	5,680,000	9-30-88
Greenville Transit Authority, Greenville, SC	SC-90-X015-02	1,296,420	9-26-88
Johnson City Transit System, Johnson City, TN	TN-90-X053-01	28,100	9-26-88
Clarksville Transit System, Clarksville, TN	TN-90-X063-01	135,000	9-26-88
City of Kingsport, Kingsport, TN	TN-90-X067	264,050	9-26-88
City of Port Arthur, Port Arthur, TX	TX-90-X111	651,200	9-30-88
City of Waco, Waco, TX	TX-90-X132	361,898	9-30-88
Capital Metropolitan Transit Authority, Austin, TX	TX-90-X141	3,729,440	9-30-88
City of Abilene, Abilene, TX	TX-90-X133	404,800	9-30-88
City of Wichita Falls, Wichita Falls, TX	TX-90-X135	162,357	9-30-88
Texoma Council of Governments, Denison, TX	TX-90-X134	194,251	9-30-88
Dallas Area Rapid Transit Authority, Dallas, TX	TX-90-X130-02	1,440,000	9-30-88
City of Grand Prairie, Dallas, TX	TX-90-X123	67,060	9-30-88
City of Brownsville, Brownsville, TX	TX-90-X139	680,800	9-30-88
El Paso Mass Transit Department, El Paso, TX	TX-90-X131	4,215,936	9-30-88
Via Metropolitan Transportation Authority, San Antonio, TX	TX-90-X138	2,638,527	9-30-88

SECTION 9 GRANTS—Continued

Transit property	Grant No.	Grant amount	Date obligated
Permian Basin Regional Planning Commission, Midland, TX	TX-90-X136	40,000	9-30-88
Brazos Valley Community Action Agency, Bryan, TX	TX-90-X129	296,820	9-30-88
City of Beaumont, Beaumont, TX	TX-90-X130	792,000	9-30-88
City of Amarillo, Amarillo, TX	TX-90-X137	804,604	9-30-88
Utah Transit Authority, Provo/Orem, UT	UT-90-X011	409,176	7-30-88
Charlottesville Transit Service, Charlottesville, VA	VA-90-X061	623,446	9-30-88
Bristol Virginia Transit, Bristol, VA	VA-90-X056	78,076	9-26-88
Peninsula Transportation District Commission, Hampton, VA	VA-90-X055	1,022,558	9-30-88
Petersburg Area Transit, Petersburg, VA	VA-90-X058	291,070	9-26-88
Greater Roanoke Transit Company, Roanoke, VA	VA-90-X059	917,521	9-26-88
Greater Richmond Transit Company, Richmond, VA	VA-90-X060	3,610,610	9-26-88
Greater Lynchburg Transit Company, Lynchburg, VA	VA-90-X062	1,187,370	9-26-88
Municipality of Metropolitan Seattle, Seattle-Everett, WA	WA-90-X086	15,678,833	9-30-88
Washington Department of Transportation, Seattle-Everett, WA	WA-90-X082	6,053,155	9-30-88
Kitsap Transit, Bremerton, WA	WA-90-X087	960,000	9-30-88
Whatcom Transportation Authority, Bellingham, WA	WA-90-X084	417,000	9-30-88
The City of Racine Belle Urban, Racine, WI	WI-90-X099	1,149,640	9-30-88
City of Kenosha, Kenosha, WI	WI-90-X097	983,200	9-30-88
Eau Claire Transit, Eau Claire, WI	WI-90-X098	371,558	9-30-88
Kanawha Valley Regional Transportation Authority, Charleston, WV	WV-90-X028	337,269	9-26-88
Ohio Valley Regional Transportation Authority, Wheeling, WV	WV-90-X030	1,012,000	9-29-88
City of Wierton, Wierton, WV	WV-90-X029	130,000	9-30-88
City of Casper, Casper, WY	WY-90-X004	282,180	9-30-88

SECTION 9 GRANTS READY FOR OBLIGATION WAITING FOR 13(c) CERTIFICATION

Transit property	Grant No.	Grant amount
Asheville Transit Authority, Asheville, NC	NC-90-X084	$641,417
Regional Transportation Commission, Reno, NV	NV-90-X008	1,125,267
Westchester County, New York, NY	NY-90-X148	5,348,097
Metropolitan Transit Authority, Nashville, TN	TN-90-X066	1,639,256
Spokane Transit Authority, Spokane, WA	WA-90-X088	3,161,738

Issued on: November 15, 1988.

Alfred A. DelliBovi,

Administrator.

[FR Doc. 99-27150 Filed 11-22-88; 8:45 am]

BILLING CODE 4910-52-M

VETERANS ADMINISTRATION

Special Medical Advisory Group; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Special Medical Advisory Group will be held on December 8 and 9, 1988. The session on December 8 will be held at the Capital Hilton Hotel, 16th and "K" Streets, NW., Washington, DC 20036, and the session on December 9 will be held in the Omar Bradley Conference Room (10th floor) at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, DC 20420. The purpose of the Special Medical Advisory Group is to advise the Administrator and Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery. The session on December 8 (held at the Capital Hilton Hotel) will convene at 6 p.m. and the session on December 9 will convene at 8 a.m. All sessions will be open to the public up to the seating capacity of the rooms. Because this capacity is limited, it will be necessary for those wishing to attend to contact Lorri Fertal, Office of the Chief Medical Director, Veterans Administration Central Office (phone 202/233-3985) prior to December 6, 1988.

Dated: November 16, 1988.

By direction of the Administrator.

Dennis R. Boxx,

Deputy Assistant Deputy Administrator for Public Affairs.

[FR Doc. 88-27126 Filed 11-22-88; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 53, No. 226
Wednesday, November 23, 1988

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:35 a.m. on Friday, November 18, 1988, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider (1) matters relating to an assistance agreement pursuant to section 13(c) of the Federal Deposit Insurance Act; and (2) a personnel matter.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: November 18, 1988.

Federal Deposit Insurance Corporation.

M. Jane Williamson,

Assistant Executive Secretary.

[FR Doc. 88-27246 Filed 11-21-88; 3:51 pm]

BILLING CODE 6714-01-M

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: At 9:00 a.m., Monday, November 28, 1988.

PLACE: In the Board Room, 6th Floor, 1700 G St., NW., Washington, DC.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202) 377-6679.

MATTERS TO BE CONSIDERED:

Minimum Regulatory Capital
Definition of Regulatory Capital

John F. Ghizzoni,

Assistant Secretary.

[FR Doc. 27241 Filed 11-21-88; 3:44 pm]

BILLING CODE 6720-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, November 28, 1988.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding a Federal Reserve Bank's building requirements.
2. Proposals regarding fees for directors of Federal Reserve Banks.
3. Federal Reserve Bank and Branch director appointments. (This item was originally announced for a closed meeting on November 9, 1988.)
4. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
5. Any items carried forward from a previously anounced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 19, 1988.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 88-27153 Filed 11-21-88; 8:50 am]

BILLING CODE 6210-01-M

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 p.m., Wednesday, December 7, 1988.

PLACE: Board Hearing Room, 8th Floor, 1425 K Street, NW., Washington, DC.

STATUS: Open

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of November, 1988.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Director's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Charles R. Barnes, Executive Director, Tel: (202) 523-5920.

DATE OF NOTICE: November 9, 1988.

Charles R. Barnes,

Executive Director, National Mediation Board.

[FR Doc. 88-27149 Filed 11-21-88; 8:50 am]

BILLING CODE 7550-01-M

POSTAL SERVICE BOARD OF GOVERNORS

Notice of a Meeting

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. section 552b), hereby gives notice that it intends to hold a meeting at 8:00 a.m. on Tuesday, December 6, 1988, in the Wilson's Plover Room of the Hyatt Regency Westshore, 6200 Courtney Campbell Causeway, Tampa, Florida. The meeting is open to the public. The Board expects to discuss the matter stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268-4800.

There will also be a session of the Board on Monday, December 5, 1988, but it will consist entirely of briefings and is not open to the public.

Agenda

Tuesday Session

December 6—8:00 a.m.

(Open)

1. Minutes of the Previous Meeting, November 7-8, 1988.
2. Remarks of the Postmaster General.
3. Annual Comprehensive Statement to Congress. (Louis A. Cox, General Counsel)
4. Chief Inspector's Report on Consumer Protection. (Charles R. Clauson, Chief Postal Inspector)
5. FY 1988 Financial Statements. (Comer S. Coppie, Senior Assistant Postmaster General, Finance Group)
6. Final FY 1990 Revenue Forgone Appropriation Request and Budget. (Comer S.

Copie, Senior Assistant Postmaster General, Finance Group)

7. Capital Investments:

a. South Florida Mail Processing Center. (Stanley W. Smith, Assistant Postmaster General, Facilities Department)

b. Multiline Optical Character Reader and Bar Code Sorter Automation. (Warren P. Denise, Acting Assistant Postmaster General, Engineering and Technical Support Department)

8. Tentative Agenda for January 9–10, 1989, meeting in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 88–27224 Filed 11–21–88; 3:41 pm]

BILLING CODE 7710–12–M

federal register

Wednesday
November 23, 1988

Part II

Environmental Protection Agency

40 CFR Part 60

Standards of Performance for New Stationary Sources: VOC Emissions From Petroleum Refinery Wastewater Systems; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 3387-1]

Standards of Performance for New Stationary Sources; VOC Emissions From Petroleum Refinery Wastewater Systems

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Standards of performance for volatile organic compound (VOC) emissions from petroleum refinery wastewater systems were proposed in the **Federal Register** on May 4, 1987 (52 FR 16334). This action promulgates standards of performance for VOC emissions from petroleum refinery wastewater systems. These standards implement Section 111 of the Clean Air Act and are based on the Administrator's determination that VOC emissions from petroleum refinery wastewater systems cause, or contribute significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare. The intended effect of these standards is to require new, modified, and reconstructed petroleum refinery wastewater systems to implement a combination of equipment, work practice, design, and operational standards that represents the best demonstrated system of continuous emission reduction, considering costs, nonair quality health and environmental impact and energy requirements.

EFFECTIVE DATE: November 23, 1988.

Under section 307(b)(1) of the Clean Air Act, judicial review of the actions taken by this notice is available *only* by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESSES: *Background information document.* The background information document (BID) for the promulgated standards may be obtained from the U.S. EPA Library (MD-35), Research Triangle Park, North Carolina 27711, telephone number (919) 541-2777. Please refer to "VOC Emissions from Petroleum Refinery Wastewater Systems—Background Information for Promulgated Standards" (EPA-450/3-85-001b). The promulgation BID contains: (1) A summary of all the public comments made on the proposed standards and the Administrator's response to the comments; (2) a summary of the changes made to the standards since proposal; and (3) the final Environmental Impact Statement, which summarizes the impacts of the standards.

Docket. A docket, number A-83-07, containing information considered by EPA in development of the promulgated standards, is available for public inspection between 8:00 a.m. and 3:30 p.m., Monday through Friday, at EPA's Central Docket Section, Room 4, South Conference Center, 401 M Street, SW., Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. James F. Durham, Chemicals and Petroleum Branch, for the technology aspects at (919) 541-5672 or, for the regulatory aspects, Mr. Doug Bell at (919) 541-5568 or Ms. Debbie W. Stackhouse at (919) 541-5258, Standards Development Branch, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: The following outline is provided to aid in reading the preamble to the final regulation:

I. The standards

Standards of performance for new sources established under section 111 of the Clean Air Act reflect:

> * * * application of the best technological system of continuous emission reduction which (taking into consideration the cost of achieving such emission reduction, any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated [section 111(a)(1)].

For convenience, this will be referred to as "best demonstrated technology" or "BDT."

A. Affected Facilities

The affected facilities to which these standards apply include: (1) Individual drain systems; (2) oil-water separators; and (3) individual drain systems with their ancillary downstream wastewater components, including sewer lines and oil-water separators (i.e., an aggregate facility as described below). The emission points to be regulated include: Drain openings; junction box covers; sewer lines; oil-water separators; slop oil facilities, including tanks and conditioning equipment; any connections or openings of these components from which VOC vapors might be emitted; and VOC control devices used to comply with the standards.

All refinery wastewater system components downstream of the oil-water separator (with the exception of slop oil facilities) have been excluded from coverage under the regulation. This includes two groups of components: (1) Air flotation systems, including dissolved air flotation systems (DAF's) and induced air flotation systems (IAF's); and (2) equalization basins and other auxiliary tanks, basins, and equipment located between the oil-water separator and the downstream air flotation system.

Individual drain systems include all process drains and sewer lines connected to the first downstream junction box. Except as noted in § 60.690(b) of the regulation, the definition for individual drain systems includes all such drains systems and the common junction box, together with the associated sewer lines and other junction boxes down to the receiving oil-water separator. Each individual drain system constitutes a separate affected facility.

Oil-water separators include the separation tank (which also includes the forebay and other separation basins), skimmers, weirs, grit chambers, and sludge hoppers. Slop oil facilities, including tanks, are also included in the oil-water separator definition as are other storage vessels and auxiliary equipment, which receive or store oily wastewater and are located between individual drain systems and the oil-water separator. Each oil-water separator that receives oily wastewater also constitutes a separate affected facility.

Because refinery wastewater systems are highly interrelated sources of VOC emissions, VOC controls on entire wastewater systems prior to and including the oil-water separation system are environmentally prudent and

within the range of reasonable costs. Thus, the aggregate affected facility includes all the emission points that are functionally related down to and including the oil-water separators [that is, each individual drain system together with its ancillary downstream treatment components (including all drains and common junction box, together with their associated sewer lines and other junction boxes down to and including the primary and secondary oil-water separators)]. However, because the emission points covered by the standards are often constructed or modified on an individual basis, the affected facilities also include each individual drain system and each oil-water separator.

The standards exempt segregated stormwater sewer systems used for the sole purpose of collecting stormwater runoff from the plant premises. Each modified or reconstructed individual drain system that has a catch basin (as defined in § 60.691) in the existing configuration is exempt from the requirements for individual drain systems. The rule also exempts surge tanks that receive only stormwater runoff or non-contact cooling water, and any other tanks or basins that are used for storing non-VOC products such as caustic or coagulant.

B. Requirements of the Standards

For process drain systems, water seal controls must be installed on drains. Junction boxes must have tight-fitting covers. Junction box covers may include an open vent pipe of a specified size to relieve any buildup of vapor pressure. Each modified or reconstructed individual drain system that has a catch basin in the existing configuration is exempt from the requirements for individual drain systems. Sewer lines in all new, modified, and reconstructed individual drain systems are required to be covered to the interconnection with the receiving oil-water separator.

For oil-water separators with a design capacity to treat more than 16 liters per second (250 gallons per minute) of refinery wastewater, a fixed roof and closed vent system that directs vapors to a control device must be installed. The control device must be a vapor recovery or destruction device designed and operated to recover or destroy VOC with an efficiency of 95 percent or greater. Smaller oil-water separators must be equipped with a fixed roof, but need not install a closed vent system and control device.

The final rule has been clarified as to what is required when an oil-water separator that was already fully or partially covered at the time of proposal is modified or reconstructed. A modified or reconstructed oil-water separator shall be equipped with a roof over the entire separator tank. If, at the time of proposal (May 4, 1987), a separator was already equipped with a fixed roof over the entire separator tank and the facility is subsequently modified or reconstructed, the roof shall be tightly sealed. If the separator has a design capacity to treat 38 liters per second (600 gallons per minute) or more of refinery wastewater, the vapor space shall be vented to a VOC recovery or destruction control device. As an alternative to a fixed roof vented to a control device, a floating roof may be installed over the entire separator tank.

If a partial fixed roof was in place at the time of proposal over a portion of the separator tank and the oil-water separator has a maximum design capacity to treat 38 liters per second (600 gallons per minute) or more, upon modification or reconstruction the remainder of the oil-water separator shall be covered with a fixed roof and the vapor space shall be vented to a control device. As an alternative to a fixed roof and control device, the partial fixed roof may be removed and the entire oil-water separator covered with a floating roof.

If a partial fixed roof was in place over a portion of the separator tank at the time of proposal and the oil-water separator has a maximum design capacity to treat less than 38 liters per second (600 gallons per minute), upon modification or reconstruction the remainder of the separator tank shall be covered with either a floating roof or a tightly sealed fixed roof, but venting the vapor space to a VOC recovery or destruction device shall not be required.

The requirements for slop oil tanks have been revised slightly. Storage vessels including slop oil tanks are covered under this subpart only if they are not an affected facility under Subparts K, Ka, or Kb of 40 CFR Part 60. Storage vessels are required to be equipped with tightly sealed fixed roofs. The requirement in the proposed standards that slop oil be collected, stored, and transported in an enclosed system prior to reuse, disposal, or reentry to a process unit remains unchanged, except for the inclusion under this requirement of oily wastewater drawn from slop oil handling equipment.

Other auxiliary equipment associated with the operation of an oil-water separator is required to meet the same requirements as the oil-water separator.

Certain technologies are specified as equivalent alternatives to BDT as defined above. Completely closed drain systems with no openings to the atmosphere are allowed in lieu of water seal controls on process drains. In the case of oil-water separators, storage vessels, and other auxiliary equipment, floating roofs are allowed as an alternative technology. The roof is required to have a liquid-mounted primary seal and a secondary seal, with both seals meeting certain minimum gap requirements.

The definition of "volatile organic compound" has been deleted from the final regulation because it is already defined in § 60.2 of the General Provisions.

The aggregate affected facility definition included in the proposed standards has been retained, but includes two changes. First, air flotation systems and other equipment downstream of the oil-water separators (with the exception of slop oil facilities) are not covered under the final standards. Second, installation of a new individual drain system (consisting of process drains connected to the first common downstream junction box), rather than any physical or operational change, is necessary to constitute a "modification" to the aggregate facility. If a new individual drain system is constructed that results in increased emissions, the individual drain system together with its ancillary downstream components down to and including the oil-water separators is an affected facility subject to the requirements for aggregate facilities, even if no capital expenditure is involved. Other physical or operational changes to the wastewater system components would constitute a modification if emissions increase and a capital expenditure is made on the facility.

As explained above, under the aggregate affected facility definition, a new individual drain system or an emissions increase from an existing drain system could cause existing downstream components to be subject to the standards. Only if the total emissions increase is offset would the wastewater components be exempt from the aggregate facility definition. Offsetting of emission increases would have to occur within the associated existing wastewater treatment facilities. Owners or operators of the facility would be required to demonstrate that emission offsets claimed at one facility would not be suppressed and thereby released to the air at some downstream location. Even though an individual drain system and existing downstream components may be exempt under the aggregate definition as a result of offsets, the new, modified or

reconstructed individual drain system may constitute a separate affected facility under the individual drain system definition. Also, a downstream oil-water separator may constitute a separate affected facility under the oil-water separator affected facility definition.

Initial performance tests are required only for flares used as VOC control devices to comply with the standards. The performance test required for flares is a test to confirm operation according to design specifications and is not an emission test.

Initial and periodic visual or physical inspections of water seals in drains are required. After the initial inspection, water seals on drains that are in active service are to be inspected each month. Water seals on drains not in active service are to be inspected weekly. Alternatively, if a tightly sealed cap or plug is installed on the inactive drain, only semiannual visual inspections are required. Initial and semiannual visual inspections are also required for covers on junction boxes, joints and covers on sewer lines, and fixed roof seals, doors, hatches and other openings on oil-water separators or auxiliary equipment to identify cracks, gaps, or other problems that could result in VOC emissions.

Owners or operators who install floating roofs on oil-water separators, storage vessels, or auxiliary equipment must determine the maximum gap widths between the primary seal and the wall of the separator and between the secondary seal and the wall of the separator within 60 days of the initial installation of the floating roof and introduction of refinery wastewater or 60 days after the equipment is placed back in service. These maximum gap widths are to be determined once every 5 years thereafter for the primary seal, and once every year thereafter for the secondary seal. If any oil-water separator ceases to receive or treat wastewater for a period of 1 year or more, subsequent introduction of refinery wastewater will be considered an initial introduction, requiring gap widths to be measured within 60 days.

Initial and semiannual monitoring of emissions from closed vent systems using a portable hydrocarbon analyzer is required to determine if there are detectable emissions (500 ppm above background levels). The EPA Method 21 would be the applicable test method. The requirement to ensure "no detectable emissions" from seams, joints, seals, and gaskets on junction boxes, oil-water separators, and other equipment having atmospheric or pressure control vents has been deleted in the final standards.

To ensure that a vapor recovery or destruction device is operating properly, the owner or operator is required to monitor the vapor flow to the control device, outlet VOC concentration or organics levels (or inlet and outlet for carbon adsorbers), or other parameters. All gauging and sampling devices on systems equipped with a control device must be kept gas-tight, except when gauging or sampling is taking place.

The reporting and recordkeeping requirements of the General Provisions apply. In addition, the design and operating specifications for all equipment used to comply with these standards are required to be maintained in a readily accessible location. Such specifications shall include the parameters to be monitored on all systems equipped with a closed vent system and control device. Initial and semiannual reports are required that certify that all inspections have been carried out. Records of each inspection where a water seal is dry or breached, a cap or plug is out of place, emissions are detected, or a problem is identified, including information about the repairs or corrective action taken, must be maintained in a readily accessible location and submitted semiannually in a summary report.

The recordkeeping and reporting requirements applicable to closed vent systems have been revised to require that certain information about the operation of the control device be maintained. For facilities using a thermal incinerator, continuous records must be maintained of the temperature of the gas stream in the combustion zone of the incinerator. Also, records of all 3-hour periods during which the average temperature of the gas stream in the combustion zone of the thermal incinerator is more than 28 °C (50 °F) below the design temperature must be maintained and reported semiannually. Similarly, for facilities using catalytic incinerators, continuous records of the temperature of the gas stream both upstream and downstream of the catalyst bed must be maintained. Also, records of all 3-hour periods during which the average temperature measured before the catalyst bed of a catalytic incinerator is more than 28 °C (50 °F) below the design gas stream temperature, and all 3-hour periods during which the average temperature difference across the catalyst bed is less than 80 percent of the design temperature difference across the catalyst bed must be maintained and reported semiannually. For facilities using a carbon adsorber, continuous records of the VOC concentration level or reading of organics of the control device outlet gas stream or inlet and outlet gas stream must be maintained. Records of all 3-hour periods during which the average VOC concentration level in the exhaust gases of a carbon adsorber is more than 20 percent greater than the design concentration level must be reported semiannually to the Administrator.

C. Selection of Format for the Standards

For petroleum refinery wastewater systems, a combination of equipment, work practice, design, and operational standards was selected. Under this approach, equipment representing BDT is required. However, procedures are included to allow alternative control equipment to be used if equivalent emission reductions can be demonstrated. Certain equivalent alternatives are allowed in the standards.

The standards require certain work practices to ensure that the control equipment installed is properly maintained. For example, regular inspections of water seals by owners or operators are required to ensure that proper water levels are maintained. Design standards are required for control devices to ensure that the type of system installed has the design capability to achieve emission reductions determined by EPA to reflect BDT.

Performance standards would allow for some flexibility in complying with the standards, since any control technique may be used if it achieves the level of emission reduction represented by the standard. However, for most refinery fugitive VOC emission sources, such as refinery wastewater systems, it is not feasible to prescribe performance standards because measurement of emissions from these sources is impractical or economically infeasible. Based on the considerations discussed below, it is not feasible to prescribe performance standards for refinery wastewater systems except where a flare is used as the control device.

Determining compliance with standards of performance for individual drain systems would be prohibitively expensive. Each drain would need to be bagged and vented in a manner that would allow the measurement of pollutant concentrations and flowrates. The cost of conducting performance tests on the numerous drains in an entire refinery or even a single refinery process unit would be unreasonably expensive.

In the case of oil-water separators, the principal limitation with standards of performance concerns the difficulty in

measuring emission levels. Emission levels can vary considerably over relatively short periods of time depending on inlet oil concentrations, wastewater flowrates through the separator, and other factors. Even though in some cases the flowrate to an oil-water separator may remain relatively constant, the VOC emissions change periodically as the time of day or upstream process conditions change. In addition, vapor recovery or destruction devices are not expected to be dedicated to a specific wastewater stream. Emissions measurement of a nondedicated system would be complicated and perhaps meaningless. Thus, standards of performance would require continuously measuring emission levels. This would be an unreasonably expensive and impracticable approach to setting the proposed standards.

II. Summary of Impacts

A. Environmental Impacts

Approximately 100 newly constructed process unit drain systems are expected to be covered by the standards during the 5-year period 1985–1989. These systems will include approximately 5,000 drains and 1,000 junction boxes. Approximately 30 new oil-water separators are also expected to be covered by the standards during the 5-year period. In addition, it is expected that a total of at least 18 modified or reconstructed process drain systems will be affected by the standards. A small number of modified or reconstructed oil-water separators will also be affected by the standards.

The standards will reduce emissions of VOC from process drain systems by about 50 percent in comparison to the emissions that would result in the absence of the standards. An emission reduction of about 88 percent would result from oil-water separators in comparison to the emissions that would result under existing State and local regulations. For separators that would be built in States that do not currently regulate them, the emission reductions achieved by these standards would generally exceed 95 percent for individual facilities. The overall emission reduction from all facilities covered by the standards is estimated to be 2,020 Mg/yr (2,225 tons/yr) in the fifth year of implementation. This is about 60 Mg/yr (65 tons/yr) less than the proposed standards and reflects the exclusion of air flotation systems from the final standards.

The VOC emitted from wastewater treatment systems contribute to atmospheric photochemical reactions. These reactions form ozone, which is harmful to human health and welfare. Reduction of VOC emissions from newly constructed, modified, and reconstructed refinery wastewater systems would at the same time reduce emissions of any toxic constituents which may be in the wastewater streams.

The standards will not have an adverse impact on water quality. The control techniques will not interfere with the basic water treatment function of oil-water separators and air flotation systems. Further, suppression of VOC in the wastewater by covering separators will not result in a significant increase in organic loading to subsequent treatment process. Volatile organic compounds have a greater affinity for the oil phase of wastewater than for the water phase. To the extent that control techniques suppress emissions of VOC, these VOC will mostly be captured in the slop oil that is removed at the oil-water separator and reused or recycled.

Further, there will be no significant amount of solid waste produced as a result of the standards. There has been no change to the standards since proposal that would affect the water quality and solid waste impacts of the standards.

B. Energy Impacts

The standards will have essentially no energy impacts on the operation of process drain systems. The standards will result in consumption of small quantities of steam, water, electricity, and fuel gas for operation of control devices to destroy VOC captured from oil-water separators. There has been no change to the standards since proposal that would have a significant adverse impact on energy consumption by affected facilities.

C. Cost Impacts

The capital cost of the controls required by this regulation for individual drain systems is based on a uniform cost for each drain and junction box for installing p-traps, covers, and vent pipes. Therefore, the cost to a facility is proportional to the size of the refinery wastewater system serving the facility. All costs are presented in third quarter 1983 dollars. For a typical plant, the capital cost of the individual drain system would be $7,600 for a new process drain and junction box system, and $21,400 for retrofitting a process drain and junction box emissions reduction system. The annualized costs of these systems for the typical refinery wastewater system would be $1,850 for the new drain and junction box system, and $5,250 for a retrofitted system. The cost effectiveness of controls on a new drain and junction box system would be $300/Mg ($270/ton) of VOC controlled, and for a retrofit system would be $850/Mg ($770/ton).

For oil-water separators, the capital and annualized costs have increased slightly since proposal due to the addition of the cost of fuel gas to purge the oil-water separator to a vapor recovery or destruction device. The capital cost of covering the separator and installing vapor control would be $30,300 for a new facility using an existing control device for vapor control. The annualized cost of the new system with existing controls would be $22,800, with an average cost effectiveness of $140/Mg ($130/ton) of VOC removed.

For retrofitting an oil-water separator with controls to comply with the regulations, the capital cost would be $41,800 for a system using existing vapor controls. The annualized cost of the retrofit system using existing controls would be $25,800, with an average cost effectiveness of $160/Mg ($150/ton) of VOC.

The national fifth year annualized costs of the regulation to affected facilities are approximately $200,000 for retrofit facilities and approximately $1.1 million for new facilities.

D. Economic Impacts

The standards for petroleum refinery wastewater systems will have very little impact upon either the firms that refine petroleum products or on the consuming public. Market forces alone will greatly affect the price of refined petroleum products. These factors include the price of domestic and imported crude oil and the proportions of each used by domestic refineries; the prices of alternative sources of energy; the growth of the United States and international economies; and the costs of other inputs into the refinery industry. If the costs of the standards are also considered, the prices of refined products would show very little additional increase, estimated approximately $0.03 per cubic meter (less than $0.01/barrel), or less than 0.1 percent. No significant reduction in demand for refined products or in the profitability of growth of the refining industry is expected to result from the implementation of this regulation.

The environmental, energy, cost, and economic impacts are discussed in greater detail in the two BID volumes: (1) "VOC Emissions From Petroleum Refinery Wastewater Systems—Background Information for Proposed Standards" (EPA–450/3–85–001a), and (2) "VOC Emissions From Petroleum Refinery Wastewater Systems—

Background Information for Promulgated Standards" (EPA–450/3–85–001b).

III. Public Participation

Prior to proposal of the standards, interested parties were advised by public notice in the **Federal Register** (49 FR 66807, June 29, 1984) of a meeting of the National Air Pollution Control Techniques Advisory Committee to discuss the VOC emissions from petroleum refinery wastewater systems recommended for proposal. This meeting was held on August 29, 1984. The meeting was open to the public and each attendee was given an opportunity to comment on the standards recommended for proposal.

The standards were proposed and published in the **Federal Register** on May 4, 1987 (52 FR 16334). The preamble to the proposed standards discussed the availability of the proposal BID, which described in detail the regulatory alternatives considered and the impacts of those alternatives. Public comments were solicited at the time of proposal, and copies of the proposal BID were distributed to interested parties.

Opportunity for interested persons to present data, views, or arguments concerning the proposed standards at a public hearing was provided. However, there were no requests for such a hearing and, therefore, no hearing was held.

The comment period extended from May 4, 1987 to July 20, 1987. Twelve comment letters were received concerning issues relative to the proposed standards of performance for petroleum refinery wastewater systems. The comments have been carefully considered and, where determined to be appropriate by the Administrator, changes have been made in the proposed standards.

IV. Significant Comments and Changes to the Proposed Standards

Comments on the proposed standards were received from industry representatives, one trade association, and one equipment vendor. A detailed discussion of these comments and responses can be found in the promulgation BID. The summary of comments and responses in the BID serves as the basis for the revisions that have been made to the standards between proposal and promulgation.

The major comments and responses have been summarized in this preamble. Most of the comment letters contained multiple comments. The major comments have been divided into the following areas: Applicability of the Standards, Definition of Affected Facility and Modification/Reconstruction, Selection of Control Technology, and Monitoring Requirements. Responses to comments not discussed below can be found in the promulgation BID to this rulemaking (see "Addresses" section).

A. Applicability of the Standards

One commenter recommended that a provision be included in the standards that would exempt facilities with oily wastewater streams containing only heavier hydrocarbon compounds. Streams containing only these compounds would be expected to have lower emissions than streams containing lighter, more volatile compounds. The commenter specifically recommended that this exemption be in the form of a minimum vapor pressure requirement of 1.5 psia. Another commenter suggested that the exemption be implemented through the use of a minimum relative volatility level. Without such an exemption, the commenters stated, the standards would impose an economic burden on some facilities without accomplishing a significant reduction in VOC emissions.

A cutoff based on vapor pressure or other measure of volatility for oily wastewater streams was considered during the development of the proposed regulation, but was not adopted because the total vapor pressure of the organics in the wastewater has the potential to vary widely and may change with wastewater loading, composition, and temperature. Among other factors that influence the rate of volatilization are ambient temperature, wind speed over the basin, and the thickness of the oil layer.

An industry survey showed that the organic loading can vary by orders of magnitude for the same wastewater system (see Docket Item No. II–B–45). Although there are no data to reflect the degree of change in organic composition of the wastewater, these changes can result from the loading variations, upset conditions, changes in operation, and the addition of new process units. For these reasons, a vapor pressure cutoff has not been included in the final standards.

Seven commenters objected to the requirement for installation of fixed roofs on DAF's. The concerns range from poor cost effectiveness (mainly due to low emissions potential); to safety (because of safety concerns, it may be necessary to purge the fixed roof to a VOC recovery or destruction device); to operation (roof would interfere with operation, reduce downstream water quality); and to maintenance (roof would hinder regular maintenance).

In response to these comments, EPA undertook a thorough reexamination of the technical, economic, and environmental bases of the application of the NSPS to air flotation systems, focusing specifically on the safety problems and the low emission potential of air flotation systems. As a result of this reexamination, the final standards have been revised to exempt air flotation systems, including both DAF's and IAF's.

The analysis undertaken by the Agency included a telephone survey of refiners with fixed roofs installed on their DAF's, as well as a review of the responses to a telephone survey of vendors conducted prior to the proposal. Further, DAF float disposal methods were reviewed to evaluate potential downstream impacts of controlling these systems. As a result of this analysis, the Agency has determined that a DAF controlled with a tightly sealed roof may pose safety concerns that were not adequately addressed by the proposed standards. An unvented fixed roof may present an explosion and fire hazard in some types of air flotation systems due to the buildup of explosive vapors inside the cover. By purging the space beneath the fixed roof with another gas, such as nitrogen, these safety concerns can be alleviated. For a system with the vapor space purged and vented to a control device, the incremental cost effectiveness was estimated to be over $13,000/Mg ($11,800/ton) of VOC. Consequently, EPA concluded there is no cost-effective method of VOC destruction or removal demonstrated for DAF's.

Fixed roof controls on air flotation systems serve to suppress VOC emissions temporarily, rather than to destroy VOC. The VOC emissions that are suppressed temporarily by the fixed roof system are merely transported downstream through air flotation effluent and froth. Consequently, about 60 Mg/year (65 tons/year) of the VOC emission reduction shown in the proposal BID actually represents the VOC suppressed temporarily by fixed roof controls on air flotation systems, but emitted downstream at uncontrolled emission points.

The Agency did consider DAF froth recycling as an alternative method for VOC control. However, recycling of froth has not been demonstrated to be a practical method of disposal for all refiners because the froth may contain additives such as coagulants. The majority of refiners landfarm or landfill froth rather than recycle it.

Taken together, these considerations led the Agency to decide that the focus

of the standards should be on the control of emissions from individual drain systems and oil-water separators, including slop oil facilities, rather than on air flotation systems. Therefore, air flotation systems are not covered by the final standards.

One commenter stated that equalization basins located upstream from the air flotation system should not be included in the definition of DAF's. According to this commenter, these are very large basins and it would be difficult to place covers on them. A cover could also be dangerous due to the large surface area and amount of potential air leaks into the cover.

Equalization basins that are part of an air flotation system have been excluded from the final standards for essentially the same reasons that air flotation systems themselves have been excluded (see above). The recommended method of VOC control was a fixed roof which, like DAF's, would suppress VOC emissions temporarily, only to be emitted at some uncontrolled location downstream. Thus, there are no cost-effective methods of VOC recovery or destruction that have been demonstrated for these facilities.

Two commenters requested clarification of the applicability of the proposed standards to slop oil from oil-water separators and of the requirement in the proposed standards that slop oil be collected and reused or disposed of in an enclosed system. The commenters stated that these requirements could extend the applicability of the standards to segments of the refinery operation beyond the wastewater system itself, and could potentially encompass the entire refinery in cases where slop oil is combined with refinery feedstock. The commenters suggested that the provision for slop oil be dropped unless a technical basis for justifying such a requirement can be demonstrated.

The final standards have been revised to clarify the scope of the regulation of slop oil and slop oil tanks. In the final standards, storage vessels, including slop oil tanks auxiliary to oil-water separators, are regulated. These storage vessels are required to be covered with a tightly sealed fixed roof. The fixed roof can be vented with a pressure relief valve that has been set at the maximum pressure necessary for proper system operation, but such that the pressure relief valve is not venting continuously. Such a requirement is both technically feasible and cost effective in view of the VOC emissions potential of these uncovered facilities.

Emissions from slop oil are regulated under this subpart until the slop oil reenters a process unit or is disposed of. The slop oil and oily wastewater drawn from slop oil handling equipment must be collected, stored, transported, reused, recycled, or disposed of in an enclosed system (i.e., it must not be open to the atmosphere). Once slop oil is returned to the process, or is disposed of, it is no longer within the scope of this regulation. Another limitation on the applicability of this subpart to storage vessels, including slop oil tanks, is posed by the requirements of Subparts K, Ka, or Kb that regulate volatile organic liquid storage vessels, depending on the size of the facility and the vapor pressure of the liquid being stored. The NSPS for petroleum refinery wastewater systems does not apply to storage vessels subject to the requirements of Subparts K, Ka, or Kb, although the transport, recycling, reuse, or disposal of slop oil remains subject to the standards for petroleum refinery wastewater systems and must be kept in an enclosed system.

B. Definition of Affected Facility/ Modification

Seven commenters recommended that the definition of an aggregate facility as a separate affected facility be deleted from the proposed regulation. The commenters stated that a refinery wastewater system is normally designed with excess capacity and VOC emissions are more related to surface area than to oil volume. Further, the commenters stated that there are no data to show that an increase in the loading of VOC-bearing wastes necessarily results in an increase in refinery wastewater VOC emissions. Therefore, in the commenters' view, it is not appropriate to require additional controls as a result of increased throughput or the addition of one new pump, process drain or process unit. The commenters recommended that the standards should be triggered only when the capacity of the wastewater system is expanded.

The EPA disagrees with the commenters' assertion that an increase in the loading of VOC-bearing wastes does not result in an increase in refinery wastewater system VOC emissions. Although the amount of wastewater surface area exposed to the atmosphere does affect emissions, the concentration of VOC in the wastewater along with other factors, such as vapor pressure and temperature, are also factors in determining the emission potential. As a result, with increases in throughput, the volatile organic loading also increases when the surface area remains constant. In EPA's view, VOC emissions can increase with increased loading even if the capacity of the wastewater system (i.e., surface area) is not expanded.

However, in order to ensure that the application of the standards to downstream components of the wastewater system is triggered only by significant changes to the system that result in emission increases, EPA has amended the definition of affected facility in the final regulation. Under the proposed regulation, any physical or operational change made to an aggregate facility that resulted in an emissions increase would have constituted a modification, thereby making the standards applicable to the changed facility and all regulated downstream components of the wastewater system. Under the final regulation, the definition of affected facility still includes the "aggregate facility," but the definition has been amended to clarify what constitutes a modification that would bring downstream components under the regulation.

In the final regulation, a new paragraph (b) has been added to § 60.690 that states that a modification to an aggregate affected facility occurs when a new individual drain system (consisting of process drains connected to the first common downstream junction box) is constructed and tied into an existing refinery wastewater system. Under the final regulation, the new individual drain system and the components of the system downstream from the new individual drain system become an aggregate affected facility. This definition will lead to the control of VOC emissions from new individual drain systems constructed to serve new process units within the refinery, as well as from those constructed to serve existing process units.

The new paragraph (b) also specifies that the capital expenditure exemption contained in § 60.14(e)(2) of the General Provisions does not apply for the addition of a new individual drain system under this regulation. Section 60.14(e)(2) states that an increase in the production rate of an existing facility is not considered a modification if the increase does not involve a capital expenditure. A capital expenditure for petroleum refineries is considered to be any expenditure greater than 7 percent of the total capital cost of the facility. The intent of the capital expenditure clause is to exclude minor changes from coverage under the NSPS. The addition of a new individual drain system is considered a significant change to the aggregate facility, because emissions are significantly increased from downstream components of the

wastewater facility. Therefore, under the final regulation, the addition of a new individual drain system to an existing wastewater facility that results in increased emissions would constitute a modification of an aggregate facility, even if no capital expenditure is involved. The capital expenditure exemption is retained for all other physical or operational changes to wastewater treatment system components. A small physical or operational change within an existing individual drain system (such as the addition of a pump) that does not constitute a capital expenditure on the aggregate facility would not be considered a modification of the aggregate facility. However, such changes may still constitute a modification to the individual facility (i.e., the individual drain system).

C. Selection of Control Technology

One commenter stated that the technical basis for installing sewer seals for emission reduction is flawed. As described by the commenter, vapors trapped by the sewer drain seals will be emitted via the junction box to prevent the buildup of potentially explosive vapors. The commenter recommended that since sewer seals will not materially reduce emissions, this requirement should be removed from the final standards.

The overall emission reductions from process drain seals are greater than from controls on junction boxes because of the greater number of process drains within a process unit. The greater number of drains exposes more surface area and thereby provides greater opportunity for volatilization.

Based on the assumption that molecular diffusion and convection are the primary factors affecting VOC emissions from drains and junction boxes, and in light of the potential safety problems of water seals on junction boxes, vent pipes are allowed to provide safe and effective emissions control from junction boxes. Because the rate of molecular diffusion and convection are influenced by the length of the vent pipe and design of the vent pipe opening, EPA evaluated the effects of different size vent pipes. Since VOC diffusion is inversely proportional to the diffusion path length, the greater the vent pipe length, the lower the rate at which molecular diffusion can transport VOC into the air. Also, the diameter of the vent pipe opening affects the emissions due to convection. Therefore, to restrict emissions due to the effects of molecular diffusion and convection from junction box vents, EPA has determined that a vent pipe having a maximum diameter of 10.2 centimeters (4 inches), and a minimum length of 90 centimeters (3 feet), will be required. Thus, a vent pipe is allowed to avoid safety problems, but a maximum diameter and minimum length are specified in order to restrict emissions due to the effects of molecular diffusion and convection.

D. Monitoring Requirements

Two commenters stated that the requirement for weekly inspection of water seals on drains is unnecessarily stringent and would present a significant burden to the industry given the large number and location of these drains in a refinery. According to the commenters, drains are often located in areas that are difficult or unsafe to inspect routinely. The commenters recommended that the inspection frequency for process drains be reduced to once a month. The commenters further stated that water seals also tend to be maintained by precipitation, maintenance washing, and use.

The EPA agrees that drains which are kept in active wastewater service will be maintained primarily by the refinery wastewater that is received from a process unit, as well as by precipitation and maintenance washing. Inspections are still required, however, to make sure that the water seals are present or that the seal pots are properly capped. Therefore, the inspection frequency has been reduced from weekly to monthly for drains in active service. For drains that are removed from active service, there is no assurance that precipitation or maintenance washing will maintain the water seal. Consequently, a weekly visual or physical inspection of the water seal is still required unless a tightly sealed cap or plug is installed. Only semiannual inspections are required for tightly sealed caps or plugs on drains not in active service to ensure that caps or plugs are properly in place.

Three commenters stated that the applicability of "no detectable emissions" to specific components of the refinery wastewater system and the associated requirement for monitoring using a portable hydrocarbon monitor to detect such emissions was inappropriate and that visual inspection would be sufficient. Specifically, the commenters objected to the application of the standards to equipment with fixed roof controls that are not required to be vented to a vapor recovery or destruction control device, such as junction boxes and some oil-water separators.

The final standards have been revised to delete the "no detectable emissions" monitoring requirement for junction boxes, oil-water separators, and other components of the affected refinery wastewater system that are not vented to a vapor recovery or destruction control device. the Agency agrees with the comment that visual inspection coupled with follow-up repair and maintenance is sufficient to prevent leaks of VOC through faulty or poorly maintained joints, seals, or gaskets. Therefore, the final standards are the same as proposed for visual inspection of all joints, seams, access doors, and other emission sources on junction boxes, sewer lines, oil-water separators and any other components of the refinery wastewater system that are subject to the standards.

For oil-water separators with closed vent systems and other closed systems, such as closed drain systems, the "no detectable emissions" requirement specified in the proposed rule is maintained in the final rule. For closed vent systems, monitoring and inspection would be required of joints, seams, access doors, and other potential emission sources when the facility becomes subject to the standards, and semiannually thereafter to ensure that there are "no detectable emissions indicated by an instrument reading of less than 500 ppm above background levels." The EPA Method 21 would be the applicable test method for these facilities.

V. Administrative

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to readily identify and locate documents so that they effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated standards and EPA responses to significant comments, the contents of the docket, except for interagency review materials, will serve as the record in case of judicial review [section 307(d)(7)(A)].

The effective date of this regulation is November 23, 1988. Section 111 of the Clean Air Act provides that standards of performance or revisions thereof become effective upon promulgation and apply to affected facilities of which the construction or modification was commenced after the date of proposal, May 4, 1987.

As prescribed by section 111, the promulgation of these standards was preceded by the Administrator's

determination pursuant to 40 CFR 60.16 that fugitive sources of VOC emissions from petroleum refineries, including wastewater systems, contribute significantly to air pollution that may reasonably be anticipated to endanger public health or welfare (44 FR 49222, August 21, 1979, and as amended by 47 FR 31876, July 23, 1982). In accordance with section 117 of the Act, publication of these promulgated standards was preceded by consultation with appropriate advisory committees, independent experts and Federal departments and agencies.

This regulation will be reviewed 4 years from the date of promulgation as required by the Clear Air Act. This review will include an assessment of such factors as the need for integration with other programs, the existence of alternative methods, enforceability, improvements in emission control technology, and reporting requirements.

Section 317 of the Clean Air Act requires the Administrator to prepare an economic impact assessment for any new source standard of performance promulgated under section 111(b) of the Act. An economic impact assessment was prepared for this regulation and for other regulatory alternatives. All aspects of the assessment were considered in the formulation of the standards to ensure that cost was carefully considered in determining BDT. The economic impact assessment is included in the BID for the proposed standards.

Information collection requirements associated with this regulation (those included in 40 CFR Part 60, Subpart A and Subpart QQQ) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number (2060-0172).

Public reporting burden for this collection of information is estimated to be 8,430 hours annually, with an average of 140 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Under Executive Order 12291, EPA is required to judge whether a regulation is a "major rule" and therefore subject to the requirements of a regulatory impact analysis (RIA). The Agency has determined that this regulation would result in none of the adverse economic effects set forth in Section 1 of the Executive Order as grounds for finding a regulation to be a "major rule." The industry-wide annualized costs in the fifth year after the standards would go into effect would be about $1.1 million, less than the $100 million established as the first criterion for a major regulation in the Executive Order. The estimated price increase of less than 0.1 percent associated with the proposed standards would not be considered a "major increase in costs or prices" specified as the second criterion in the Executive Order. The economic analysis of the proposed standards' effect on the industry did not indicate any significant adverse effects on competition, investment, productivity, employment, innovation, or the ability of U.S. firms to compete with foreign firms (the third criterion in the Executive Order). The Agency has, therefore, concluded that this regulation is not a "major rule" under Exectuive Order 12291.

This regulation was submitted to OMB for review as required by Executive Order 12291. Any written comments from OMB to EPA and any EPA response to those comments are available for public inspection in Docket No. A-82-39, EPA's Central Docket Section, South Conference Center, Room 4, 401 M Street, SW., Washington, DC 20460.

The Regulatory Flexibility Act of 1980 requires the identification of potentially adverse impacts of Federal regulations upon small business entities. The Act specifically requires the completion of a Regulatory Flexibility Analysis in those instances where small business impacts are possible. Because these standards impose no adverse economic impacts, a Regulatory Flexibility Analysis has not been conducted.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Petroleum refining, Reporting and recordkeeping requirements.

Date: November 8, 1988.

Lee M. Thomas,

Administrator.

PART 60—AMENDED

For the reasons set forth in the preamble, 40 CFR Part 60 is amended as follows:

1. The authority citation for Part 60 continues to read as follows:

Authority: Secs. 101, 111, 114, 116, 301, Clean Air Act as amended (42 U.S.C. 7401, 7411, 7414, 7416, 7601).

2. By adding a new subpart as follows:

Subpart QQQ—Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems

Sec.

Subpart QQQ—Standards of Performance for VOC Emissions From Petroleum Refinery Wastewater Systems

§ 60.690 Applicability and designation of affected facility.

(a)(1) The provisions of this subpart apply to affected facilities located in petroleum refineries for which construction, modification, or reconstruction is commenced after May 4, 1987.

(2) An individual drain system is a separate affected facility.

(3) An oil-water separator is a separate affected facility.

(4) An aggregate facility is a separate affected facility.

(b) Notwithstanding the provisions of 40 CFR 60.14(e)(2), the construction or installation of a new individual drain system shall constitute a modification to an affected facility described in § 60.690(a)(4). For purposes of this paragraph, a new individual drain

system shall be limited to all process drains and the first common junction box.

§ 60.691 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act or in Subpart A of 40 CFR Part 60, and the following terms shall have the specific meanings given them.

"Active service" means that a drain is receiving refinery wastewater from a process unit that will continuously maintain a water seal.

"Aggregate facility" means an individual drain system together with ancillary downstream sewer lines and oil-water separators, down to and including the secondary oil-water separator, as applicable.

"Catch basin" means an open basin which serves as a single collection point for stormwater runoff received directly from refinery surfaces and for refinery wastewater from process drains.

"Closed vent system" means a system that is not open to the atmosphere and is composed of piping, connections, and, if necessary, flow inducing devices that transport gas or vapor from an emission source to a control device.

"Completely closed drain system" means an individual drain system that is not open to the atmosphere and is equipped and operated with a closed vent system and control device complying with the requirements of § 60.692–5.

"Control device" means an enclosed combustion device, vapor recovery system or flare.

"Fixed roof" means a cover that is mounted to a tank or chamber in a stationary manner and which does not move with fluctuations in wastewater levels.

"Floating roof" means a pontoon-type or double-deck type cover that rests on the liquid surface.

"Gas-tight" means operated with no detectable emissions.

"Individual drain system" means all process drains connected to the first common downstream junction box. The term includes all such drains and common junction box, together with their associated sewer lines and other junction boxes, down to the receiving oil-water separator.

"Junction box" means a manhole or access point to a wastewater sewer system line.

"No detectable emissions" means less than 500 ppm above background levels, as measured by a detection instrument in accordance with Method 21 in Appendix A of 40 CFR Part 60.

"Non-contact cooling water system" means a once-through drain, collection and treatment system designed and operated for collecting cooling water which does not come into contact with hydrocarbons or oily wastewater and which is not recirculated through a cooling tower.

"Oil-water separator" means wastewater treatment equipment used to separate oil from water consisting of a separation tank, which also includes the forebay and other separator basins, skimmers, weirs, grit chambers, and sludge hoppers. Slop oil facilities, including tanks, are included in this term along with storage vessels and auxiliary equipment located between individual drain systems and the oil-water separator. This term does not include storage vessels or auxiliary equipment which do not come in contact with or store oily wastewater.

"Oily wastewater" means wastewater generated during the refinery process which contains oil, emulsified oil, or other hydrocarbons. Oily wastewater originates from a variety of refinery processes including cooling water, condensed stripping steam, tank draw-off, and contact process water.

"Petroleum" means the crude oil removed from the earth and the oils derived from tar sands, shale, and coal.

"Petroleum refinery" means any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants, or other products through the distillation of petroleum, or through the redistillation of petroleum, cracking, or reforming unfinished petroleum derivatives.

"Sewer line" means a lateral, trunk line, branch line, ditch, channel, or other conduit used to convey refinery wastewater to downstream components of a refinery wastewater treatment system. This term does not include buried, below-grade sewer lines.

"Slop oil" means the floating oil and solids that accumulate on the surface of an oil-water separator.

"Storage vessel" means any tank, reservoir, or container used for the storage of petroleum liquids, including oily wastewater.

"Stormwater sewer system" means a drain and collection system designed and operated for the sole purpose of collecting stormwater and which is segregated from the process wastewater collection system.

"Wastewater system" means any component, piece of equipment, or installation that receives, treats, or processes oily wastewater from petroleum refinery process units.

"Water seal controls" means a seal pot, p-leg trap, or other type of trap filled with water that has a design capability to create a water barrier between the sewer and the atmosphere.

§ 60.692–1 Standards: General.

(a) Each owner or operator subject to the provisions of this subpart shall comply with the requirements of §§ 60.692–1 to 60.692–5 and with §§ 60.693–1 and 60.693–2, except during periods of startup, shutdown, or malfunction.

(b) Compliance with §§ 60.692–1 to 60.692–5 and with §§ 60.693–1 and 60.693–2 will be determined by review of records and reports, review of performance test results, and inspection using the methods and procedures specified in § 60.696.

(c) Permission to use alternative means of emission limitation to meet the requirements of §§ 60.692–2 through 60.692–4 may be granted as provided in § 60.694.

(d)(1) Stormwater sewer systems are not subject to the requirements of this subpart.

(2) Ancillary equipment, which is physically separate from the wastewater system and does not come in contact with or store oily wastewater, is not subject to the requirements of this subpart.

(3) Non-contact cooling water systems are not subject to the requirements of this subpart.

(4) An owner or operator shall demonstrate compliance with the exclusions in paragraphs (d)(1), (d)(2), and (d)(3) of this section as provided in § 60.697 (h), (i), and (j).

§ 60.692–2 Standards: Individual drain systems.

(a)(1) Each drain shall be equipped with water seal controls.

(2) Each drain in active service shall be checked by visual or physical inspection initially and monthly thereafter for indications of low water levels or other conditions that would reduce the effectiveness of the water seal controls.

(3) Except as provided in paragraph (a)(4) of this section, each drain out of active service shall be checked by visual or physical inspection initially and weekly thereafter for indications of low water levels or other problems that could result in VOC emissions.

(4) As an alternative to the requirements in paragraph (a)(3) of this section, if an owner or operator elects to install a tightly sealed cap or plug over a drain that is out of service, inspections shall be conducted initially and semiannually to ensure caps or plugs are in place and properly installed.

(5) Whenever low water levels or missing or improperly installed caps or plugs are identified, water shall be added or first efforts at repair shall be made as soon as practicable, but not later than 24 hours after detection, except as provided in § 60.692–6.

(b)(1) Junction boxes shall be equipped with a cover and may have an open vent pipe. The vent pipe shall be at least 90 cm (3 ft) in length and shall not exceed 10.2 cm (4 in) in diameter.

(2) Junction box covers shall have a tight seal around the edge and shall be kept in place at all times, except during inspection and maintenance.

(3) Junction boxes shall be visually inspected initially and semiannually thereafter to ensure that the cover is in place and to ensure that the cover has a tight seal around the edge.

(4) If a broken seal or gap is identified, first effort at repair shall be made as soon as practicable, but not later than 15 calendar days after the broken seal or gap is identified, except as provided in § 60.692–6.

(c)(1) Sewer lines shall not be open to the atmosphere and shall be covered or enclosed in a manner so as to have no visual gaps or cracks in joints, seals, or other emission interfaces.

(2) The portion of each unburied sewer line shall be visually inspected initially and semiannually thereafter for indication of cracks, gaps, or other problems that could result in VOC emissions.

(3) Whenever cracks, gaps, or other problems are detected, repairs shall be made as soon as practicable, but not later than 15 calendar days after identification, except as provided in § 60.692–6.

(d) Except as provided in paragraph (e) of this section, each modified or reconstructed individual drain system that has a catch basin in the existing configuration prior to May 4, 1987 shall be exempt from the provisions of this section.

(e) Refinery wastewater routed through new process drains and a new first common downstream junction box, either as part of a new individual drain system or an existing individual drain system, shall not be routed through a downstream catch basin.

§ 60.692–3 Standards: Oil-water separators.

(a) Each oil-water separator tank, slop oil tank, storage vessel, or other auxiliary equipment subject to the requirements of this subpart shall be equipped and operated with a fixed roof, which meets the following specifications, except as provided in paragraph (d) of this section or in § 60.693–2.

(1) The fixed roof shall be installed to completely cover the separator tank, slop oil tank, storage vessel, or other auxiliary equipment with no separation between the roof and the wall.

(2) The vapor space under a fixed roof shall not be purged unless the vapor is directed to a control device.

(3) If the roof has access doors or openings, such doors or openings shall be gasketed, latched, and kept closed at all times during operation of the separator system, except during inspection and maintenance.

(4) Roof seals, access doors, and other openings shall be checked by visual inspection initially and semiannually thereafter to ensure that no cracks or gaps occur between the roof and wall and that access doors and other openings are closed and gasketed properly.

(5) When a broken seal or gasket or other problem is identified, first efforts at repair shall be made as soon as practicable, but not later than 15 calendar days after it is identified, except as provided in § 60.692–6.

(b) Each oil-water separator tank or auxiliary equipment with a design capacity to treat more than 16 liters per second (250 gpm) of refinery wastewater shall, in addition to the requirements in paragraph (a) of this section, be equipped and operated with a closed vent system and control device, which meet the requirements of § 60.692–5, except as provided in paragraph (c) of this section or in § 60.693–2.

(c)(1) Each modified or reconstructed oil-water separator tank with a maximum design capacity to treat less than 38 liters per second (600 gpm) of refinery wastewater which was equipped and operated with a fixed roof covering the entire separator tank or a portion of the separator tank prior to May 4, 1987 shall be exempt from the requirements of paragraph (b) of this section, but shall meet the requirements of paragraph (a) of this section, or may elect to comply with paragraph (c)(2) of this section.

(2) The owner or operator may elect to comply with the requirements of paragraph (a) of this section for the existing fixed roof covering a portion of the separator tank and comply with the requirements for floating roofs in § 60.693–2 for the remainder of the separator tank.

(d) Storage vessels, including slop oil tanks and other auxiliary tanks that are subject to the requirements of 40 CFR Subparts K, Ka, or Kb, are not subject to the requirements of this section.

(e) Slop oil from an oil-water separator tank and oily wastewater from slop oil handling equipment shall be collected, stored, transported, recycled, reused, or disposed of in an enclosed system. Once slop oil is returned to the process unit or is disposed of, it is no longer within the scope of this subpart. Equipment used in handling slop oil shall be equipped with a fixed roof meeting the requirements of paragraph (a) of this section.

(f) Each oil-water separator tank, slop oil tank, storage vessel, or other auxiliary equipment that is required to comply with paragraph (a) of this section, and not paragraph (b) of this section, may be equipped with a pressure control valve as necessary for proper system operation. The pressure control valve shall be set at the maximum pressure necessary for proper system operation, but such that the value will not vent continuously.

§ 60.692–4 Standards: Aggregate facility.

A new, modified, or reconstructed aggregate facility shall comply with the requirements of §§ 60.692–2 and 60.692–3.

§ 60.692–5 Standards: Closed vent systems and control devices.

(a) Enclosed combustion devices shall be designed and operated to reduce the VOC emissions vented to them with an efficiency of 95 percent or greater or to provide a minimum residence time of 0.75 seconds at a minimum temperature of 816°C (1,500°F).

(b) Vapor recovery systems (for example, condensers and adsorbers) shall be designed and operated to recover the VOC emissions vented to them with an efficiency of 95 percent or greater.

(c) Flares used to comply with this subpart shall comply with the requirements of 40 CFR 60.18.

(d) Closed vent systems and control devices used to comply with provisions of this subpart shall be operated at all times when emissions may be vented to them.

(e)(1) Closed vent systems shall be designed and operated with no detectable emissions, as indicated by an instrument reading of less than 500 ppm above background, as determined during the initial and semiannual inspections by the methods specified in § 60.696.

(2) Closed vent systems shall be purged to direct vapor to the control device.

(3) A flow indicator shall be installed on a vent stream to a control device to ensure that the vapors are being routed to the device.

(4) All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

(5) When emissions from a closed system are detected, first efforts at repair to eliminate the emissions shall be made as soon as practicable, but not later than 30 calendar days from the date the emissions are detected, except as provided in § 60.692–6.

§ 60.692–6 Standards: Delay of repair.

(a) Delay of repair of facilities that are subject to the provisions of this subpart will be allowed if the repair is technically impossible without a complete or partial refinery or process unit shutdown.

(b) Repair of such equipment shall occur before the end of the next refinery or process unit shutdown.

§ 60.692–7 Standards: Delay of compliance.

(a) Delay of compliance of modified individual drain systems with ancillary downstream treatment components will be allowed if compliance with the provisions of this subpart cannot be achieved without a refinery or process unit shutdown.

(b) Installation of equipment necessary to comply with the provisions of this subpart shall occur no later than the next scheduled refinery or process unit shutdown.

§ 60.693–1 Alternative standards for individual drain systems.

(a) An owner or operator may elect to construct and operate a completely closed drain system.

(b) Each completely closed drain system shall be equipped and operated with a closed vent system and control device complying with the requirements of § 60.692–5.

(c) An owner or operator must notify the Administrator in the report required in 40 CFR 60.7 that the owner or operator has elected to construct and operate a completely closed drain system.

(d) If an owner or operator elects to comply with the provisions of this section, then the owner or operator does not need to comply with the provisions of §§ 60.692–2 or 60.694.

(e)(1) Sewer lines shall not be open to the atmosphere and shall be covered or enclosed in a manner so as to have no visual gaps or cracks in joints, seals, or other emission interfaces.

(2) The portion of each unburied sewer line shall be visually inspected initially and semiannually thereafter for indication of cracks, gaps, or other problems that could result in VOC emissions.

(3) Whenever cracks, gaps, or other problems are detected, repairs shall be made as soon as practicable, but not later than 15 calendar days after identification, except as provided in § 60.692–6.

§ 60.693–2 Alternative standards for oil-water separators.

(a) An owner or operator may elect to construct and operate a floating roof on an oil-water separator tank, slop oil tank, storage vessel, or other auxiliary equipment subject to the requirements of this subpart which meets the following specifications.

(1) Each floating roof shall be equipped with a closure device between the wall of the separator and the roof edge. The closure device is to consist of a primary seal and a secondary seal.

(i) The primary seal shall be a liquid-mounted seal.

(A) A liquid-mounted seal means a foam- or liquid-filled seal mounted in contact with the liquid between the wall of the separator and the floating roof.

(B) The gap width between the primary seal and the separator wall shall not exceed 3.8 cm (1.5 in.) at any point.

(C) The total gap area between the primary seal and the separator wall shall not exceed 67 cm^2/m (3.2 $in.^2/ft$) of separator wall perimeter.

(ii) The secondary seal shall be above the primary seal and cover the annular space between the floating roof and the wall of the separator.

(A) The gap width between the secondary seal and the separator wall shall not exceed 1.3 cm (0.5 in.) at any point.

(B) The total gap area between the secondary seal and the separator wall shall not exceed 6.7 cm^2/m (0.32 $in.^2/ft$) of separator wall perimeter.

(iii) The maximum gap width and total gap area shall be determined by the methods and procedures specified in § 60.696(d).

(A) Measurement of primary seal gaps shall be performed within 60 calendar days after initial installation of the floating roof and introduction of refinery wastewater and once every 5 years thereafter.

(B) Measurement of secondary seal gaps shall be performed within 60 calendar days of initial introduction of refinery wastewater and once every year thereafter.

(iv) The owner or operator shall make necessary repairs within 30 calendar days of identification of seals not meeting the requirements listed in paragraphs (a)(1) (i) and (ii) of this section.

(2) Except as provided in paragraph (a)(4) of this section, each opening in the roof shall be equipped with a gasketed cover, seal, or lid, which shall be maintained in a closed position at all times, except during inspection and maintenance.

(3) The roof shall be floating on the liquid (i.e., off the roof supports) at all times except during abnormal conditions (i.e., low flow rate).

(4) The floating roof may be equipped with one or more emergency roof drains for removal of stormwater. Each emergency roof drain shall be fitted with a slotted membrane fabric cover that covers at least 90 percent of the drain opening area or a flexible fabric sleeve seal.

(5)(i) Access doors and other openings shall be visually inspected initially and semiannually thereafter to ensure that there is a tight fit around the edges and to identify other problems that could result in VOC emissions.

(ii) When a broken seal or gasket on an access door or other opening is identified, it shall be repaired as soon as practicable, but not later than 30 calendar days after it is identified, except as provided in § 60.692–6.

(b) An owner or operator must notify the Administrator in the report required by 40 CFR 60.7 that the owner or operator has elected to construct and operate a floating roof under paragraph (a) of this section.

(c) For portions of the oil-water separator tank where it is infeasible to construct and operate a floating roof, such as the skimmer mechanism and weirs, a fixed roof meeting the requirements of § 60.692–3(a) shall be installed.

(d) Except as provided in paragraph (c) of this section, if an owner or operator elects to comply with the provisions of this section, then the owner or operator does not need to comply with the provisions of §§ 60.692–3 or 60.694 applicable to the same facilities.

§ 60.694 Permission to use alternative means of emission limitation.

(a) If, in the Administrator's judgment, an alternative means of emission limitation will achieve a reduction in VOC emissions at least equivalent to the reduction in VOC emissions achieved by the applicable requirement in § 60.692, the Administrator will publish in the **Federal Register** a notice permitting the use of the alternative means for purposes of compliance with that requirement. The notice may condition the permission on requirements related to the operation

and maintenance of the alternative means.

(b) Any notice under paragraph (a) of this section shall be published only after notice and an opportunity for a hearing.

(c) Any person seeking permission under this section shall collect, verify, and submit to the Administrator information showing that the alternative means achieves equivalent emission reductions.

§ 60.695 Monitoring of operations.

(a) Each owner or operator subject to the provisions of this subpart shall install, calibrate, maintain, and operate according to manufacturer's specifications the following equipment, unless alternative monitoring procedures or requirements are approved for that facility by the Administrator.

(1) Where a thermal incinerator is used for VOC emission reduction, a temperature monitoring device equipped with a continuous recorder shall be used to measure the temperature of the gas stream in the combustion zone of the incinerator. The temperature monitoring device shall have an accuracy of 1 percent of the temperature being measured in °C or ±0.5 °C (±1.0 °F), whichever is greater.

(2) Where a catalytic incinerator is used for VOC emission reduction, temperature monitoring devices, each equipped with a continuous recorder shall be used to measure the temperature in the gas stream immediately before and after the catalyst bed of the incinerator. The temperature monitoring devices shall have an accuracy of 1 percent of the temperature being measured in °C or ±0.5 °C (±1.0 °F), whichever is greater.

(3) Where a carbon adsorber is used for VOC emissions reduction, a monitoring device that continuously indicates and records the VOC concentration level or reading of organics in the exhaust gases of the control device outlet gas stream or inlet and outlet gas stream shall be used.

(4) Where a flare is used for VOC emission reduction, the owner or operator shall comply with the monitoring requirements of 40 CFR 60.18(f)(2).

(b) Where a VOC recovery device other than a carbon adsorber is used to meet the requirements specified in § 60.692–5(a), the owner or operator shall provide to the Administrator information describing the operation of the control device and the process parameter(s) that would indicate proper operation and maintenance of the device. The Administrator may request further information and will specify appropriate monitoring procedures or requirements.

(c) An alternative operational or process parameter may be monitored if it can be demonstrated that another parameter will ensure that the control device is operated in conformance with these standards and the control device's design specifications.

§ 60.696 Performance test methods and procedures and compliance provisions.

(a) Before using any equipment installed in compliance with the requirements of §§ 60.692–2, 60.692–3, 60.692–4, 60.692–5, or 60.693, the owner or operator shall inspect such equipment for indications of potential emissions, defects, or other problems that may cause the requirements of this subpart not to be met. Points of inspection shall include, but are not limited to, seals, flanges, joints, gaskets, hatches, caps, and plugs.

(b) The owner or operator of each source that is equipped with a closed vent system and control device as required in § 60.692–5 (other than a flare) is exempt from § 60.8 of the General Provisions and shall use Method 21 to measure the emission concentrations, using 500 ppm as the no detectable emission limit. The instrument shall be calibrated each day before using. The calibration gases shall be:

(1) Zero air (less than 10 ppm of hydrocarbon in air), and

(2) A mixture of either methane or n-hexane and air at a concentration of approximately, but less than, 10,000 ppm methane or n-hexane.

(c) The owner or operator shall conduct a performance test initially, and at other times as requested by the Administrator, using the test methods and procedures in § 60.18(f) to determine compliance of flares.

(d) After installing the control equipment required to meet § 60.693–2(a) or whenever sources that have ceased to treat refinery wastewater for a period of 1 year or more are placed back into service, the owner or operator shall determine compliance with the standards in § 60.693–2(a) as follows:

(1) The maximum gap widths and maximum gap areas between the primary seal and the separator wall and between the secondary seal and the separator wall shall be determined individually within 60 calendar days of the initial installation of the floating roof and introduction of refinery wastewater or 60 calendar days after the equipment is placed back into service using the following procedure when the separator is filled to the design operating level and when the roof is floating off the roof supports.

(i) Measure seal gaps around the entire perimeter of the separator in each place where a 0.32 cm (0.125 in.) diameter uniform probe passes freely (without forcing or binding against seal) between the seal and the wall of the separator and measure the gap width and perimetrical distance of each such location.

(ii) The total surface area of each gap described in (d)(1)(i) of this section shall be determined by using probes of various widths to measure accurately the actual distance from the wall to the seal and multiplying each such width by its respective perimetrical distance.

(iii) Add the gap surface area of each gap location for the primary seal and the secondary seal individually, divide the sum for each seal by the nominal perimeter of the separator basin and compare each to the maximum gap area as specified in § 60.693–2.

(2) The gap widths and total gap area shall be determined using the procedure in paragraph (d)(1) of this section according to the following frequency:

(i) For primary seals, once every 5 years.

(ii) For secondary seals, once every year.

§ 60.697 Recordkeeping requirements.

(a) Each owner or operator of a facility subject to the provisions of this subpart shall comply with the recordkeeping requirements of this section. All records shall be retained for a period of 2 years after being recorded unless otherwise noted.

(b)(1) For individual drain systems subject to § 60.692–2, the location, date, and corrective action shall be recorded for each drain when the water seal is dry or otherwise breached, when a drain cap or plug is missing or improperly installed, or other problem is identified that could result in VOC emissions, as determined during the initial and periodic visual or physical inspection.

(2) For junction boxes subject to § 60.692–2, the location, date, and corrective action shall be recorded for inspections required by § 60.692–2(b) when a broken seal, gap, or other problem is identified that could result in VOC emissions.

(3) For sewer lines subject to §§ 60.692–2 and 60.693–1(e), the location, date, and corrective action shall be recorded for inspections required by §§ 60.692–2(c) and 60.693–1(e) when a problem is identified that could result in VOC emissions.

(c) For oil-water separators subject to § 60.692–3, the location, date, and

corrective action shall be recorded for inspections required by by § 60.692–3(a) when a problem is identified that could result in VOC emissions.

(d) For closed vent systems subject to § 60.692–5 and completely closed drain systems subject to § 60.693–1, the location, date, and corrective action shall be recorded for inspections required by § 60.692–5(e) during which detectable emissions are measured or a problem is identified that could result in VOC emissions.

(e)(1) If an emission point cannot be repaired or corrected without a process unit shutdown, the expected date of a successful repair shall be recorded.

(2) The reason for the delay as specified in § 60.692–6 shall be recorded if an emission point or equipment problem is not repaired or corrected in the specified amount of time.

(3) The signature of the owner or operator (or designee) whose decision it was that repair could not be effected without refinery or process shutdown shall be recorded.

(4) The date of successful repair or corrective action shall be recorded.

(f)(1) A copy of the design specifications for all equipment used to comply with the provisions of this subpart shall be kept for the life of the source in a readily accessible location.

(2) The following information pertaining to the design specifications shall be kept.

(i) Detailed schematics, and piping and instrumentation diagrams.

(ii) The dates and descriptions of any changes in the design specifications.

(3) The following information pertaining to the operation and maintenance of closed drain systems and closed vent systems shall be kept in a readily accessible location.

(i) Documentation demonstrating that the control device will achieve the required control efficiency during maximum loading conditions shall be kept for the life of the facility. This documentation is to include a general description of the gas streams that enter the control device, including flow and VOC content under varying liquid level conditions (dynamic and static) and manufacturer's design specifications for the control device. If an enclosed combustion device with a minimum residence time of 0.75 seconds and a minimum temperature of 816°C (1,500°F) is used to meet the 95-percent requirement, documentation that those conditions exist is sufficient to meet the requirements of this paragraph.

(ii) A description of the operating parameter (or parameters) to be monitored to ensure that the control device will be operated in conformance with these standards and the control device's design specifications and an explanation of the criteria used for selection of that parameter (or parameters) shall be kept for the life of the facility.

(iii) Periods when the closed vent systems and control devices required in § 60.692 are not operated as designed, including periods when a flare pilot does not have a flame shall be recorded and kept for 2 years after the information is recorded.

(iv) Dates of startup and shutdown of the closed vent system and control devices required in § 60.692 shall be recorded and kept for 2 years after the information is recorded.

(v) The dates of each measurement of detectable emissions required in §§ 60.692, 60.693, or 60.692–5 shall be recorded and kept for 2 years after the information is recorded.

(vi) The background level measured during each detectable emissions measurement shall be recorded and kept for 2 years after the information is recorded.

(vii) The maximum instrument reading measured during each detectable emission measurement shall be recorded and kept for 2 years after the information is recorded.

(viii) Each owner or operator of an affected facility that uses a thermal incinerator shall maintain continuous records of the temperature of the gas stream in the combustion zone of the incinerator and records of all 3–hour periods of operation during which the average temperature of the gas stream in the combustion zone is more than 28°C (50°F) below the design combustion zone temperature, and shall keep such records for 2 years after the information is recorded.

(ix) Each owner or operator of an affected facility that uses a catalytic incinerator shall maintain continuous records of the temperature of the gas stream both upstream and downstream of the catalyst bed of the incinerator, records of all 3-hour periods of operation during which the average temperature measured before the catalyst bed is more than 28°C (50°F) below the design gas stream temperature, and records of all 3-hour periods during which the average temperature difference across the catalyst bed is less than 80 percent of the design temperature difference, and shall keep such records for 2 years after the information is recorded.

(x) Each owner or operator of an affected facility that uses a carbon adsorber shall maintain continuous records of the VOC concentration level or reading of organics of the control device outlet gas stream or inlet and outlet gas stream and records of all 3-hour periods of operation during which the average VOC concentration level or reading of organics in the exhaust gases, or inlet and outlet gas stream, is more than 20 percent greater than the design exhaust gas concentration level, and shall keep such records for 2 years after the information is recorded.

(g) If an owner or operator elects to install a tightly sealed cap or plug over a drain that is out of active service, the owner or operator shall keep for the life of a facility in a readily accessible location, plans or specifications which indicate the location of such drains.

(h) For stormwater sewer systems subject to the exclusion in § 60.692–1(d)(1), an owner or operator shall keep for the life of the facility in a readily accessible location, plans or specifications which demonstrate that no wastewater from any process units or equipment is directly discharged to the stormwater sewer system.

(i) For ancillary equipment subject to the exclusion in § 60.692–1(d)(2), an owner or operator shall keep for the life of a facility in a readily accessible location, plans or specifications which demonsrate that the ancillary equipment does not come in contact with or store oily wastewater.

(j) For non-contact cooling water systems subject to the exclusion in § 60.692–1(d)(3), and owner or operator shall keep for the life of the facility in a readily accessible location, plans or specifications which demonstrate that the cooling water does not contact hydrocarbons or oily wastewater and is not recirculated through a cooling tower.

(Approved by the Office of Management and Budget under control number 2060–0172)

§ 60.698 Reporting requirements.

(a) An owner or operator electing to comply with the provisions of § 60.693 shall notify the Administrator of the alternative standard selected in the report required in § 60.7.

(b)(1) Each owner or operator of a facility subject to this subpart shall submit to the Administrator within 60 days after initial startup a certification that the equipment necessary to comply with these standards has been installed and that the required initial inspections or tests of process drains, sewer lines, junction boxes, oil-water separators, and closed vent systems and control devices have been carried out in accordance with these standards. Thereafter, the owner or operator shall submit to the Administrator semiannually a certification that all of

the required inspections have been carried out in accordance with these standards.

(2) Each owner or operator of an affected facility that uses a flare shall submit to the Administrator within 60 days after initial startup, as required under § 60.8(a), a report of the results of the performance test required in § 60.696(c).

(c) A report that summarizes all inspections when a water seal was dry or otherwise breached, when a drain cap or plug was missing or improperly installed, or when cracks, gaps, or other problems were identified that could result in VOC emissions, including information about the repairs or corrective action taken, shall be submitted initially and semiannually thereafter to the Administrator.

(d) As applicable, a report shall be submitted semiannually to the Administrator that indicates:

(1) Each 3-hour period of operation during which the average temperature of the gas stream in the combustion zone of a thermal incinerator, as measured by the temperature monitoring device, is more than 28 °C (50 °F) below the design combustion zone temperature,

(2) Each 3-hour period of operation during which the average temperature of the gas stream immediately before the catalyst bed of a catalytic incinerator, as measured by the temperature monitoring device, is more than 28°C (50°F) below the design gas stream temperature, and any 3-hour period during which the average temperature difference across the catalyst bed (i.e., the difference between the temperatures of the gas stream immediately before and after the catalyst bed), as measured by the temperature monitoring device, is less than 80 percent of the design temperature difference, or,

(3) Each 3-hour period of operation during which the average VOC concentration level or reading of organics in the exhaust gases from a carbon adsorber is more than 20 percent greater than the design exhaust gas concentration level or reading.

(e) If compliance with the provisions of this subpart is delayed pursuant to § 60.692–7, the notification required under 40 CFR 60.7(a)(4) shall include the estimated date of the next scheduled refinery or process unit shutdown after the date of notification and the reason why compliance with the standards is technically impossible without a refinery or process unit shutdown.

(Approved by the Office of Management and Budget under control number 2060–0172)

§ 60.699 Delegation of authority.

(a) In delegating implementation and enforcement authority to a State under section 111(c) of the Act, the authorities contained in paragraph (b) of this section shall be retained by the Administrator and not transferred to a State.

(b) Authorities which will not be delegated to States:

§ 60.694 Permission to use alternative means of emission limitations.

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Federal Register

Wednesday
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Part III

Environmental Protection Agency

40 CFR Parts 122 and 403

EPA Administered Permit Programs; the National Pollutant Discharge Elimination System; General Pretreatment Regulations for Existing and New Sources; Proposals To Implement the Recommendations of the Domestic Sewage Study; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 122 and 403

[EN-FRL-3309-6]

EPA Administered Permit Programs, The National Pollutant Discharge Elimination System; General Pretreatment Regulations for Existing and New Sources, Proposals to Implement the Recommendations of the Domestic Sewage Study.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to amend the General Pretreatment and the National Pollutant Discharge Elimination System regulations (40 CFR Parts 122 and 403) to implement section 3018(b) of the Resource Conservation and Recovery Act (RCRA) and sections 207(b) and 402(b)(8) of the Clean Water Act (CWA). The proposed regulations are intended to carry out the recommendations of the Domestic Sewage Study (hereinafter referred to as "the Study").

EPA submitted the Study to Congress in response to section 3018(a) of RCRA. This provision directed the Agency to prepare a report for Congress on wastes discharged through sewer systems to publicly owned treatment works (POTWs) that are exempt from regulation under RCRA as a result of the Domestic Sewage Exclusion. The Study examined the nature and sources of hazardous wastes discharged to POTWs, measured the effectiveness of EPA's programs in dealing with such discharges, and recommended ways to improve the programs to better control hazardous wastes entering POTWs.

To implement the recommendations to the Study, section 3018(b) of RCRA directs the Administrator to revise existing regulations and promulgate such additional regulations as are necessary to assure the hazardous wastes discharged to POTWs are adequately controlled to protect human health and the environment. Today's proposed changes to the general pretreatment regulations are a step towards that goal. POTWs should note that parts of today's proposal apply to all POTWs, whether or not they have an approved pretreatment program.

DATE: Comments must be received on or before January 23, 1989.

ADDRESS: Comments should be addressed to Marilyn Goode, Permits Division (EN-336), Environmental Protection Agency, 401 M Street SW., Washington DC 20460.

FOR FURTHER INFORMATION CONTACT: Marilyn Goode, Permits Division (EN-336), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (202-475-9533). The record for this rulemaking is available at Room 208 Northeast Mall at the above address.

SUPPLEMENTARY INFORMATION

I. Background

The regulatory amendments proposed today originated in the Domestic Sewage Exclusion. The exclusion, established by Congress in section 1004(27) of RCRA, provides that solid or dissolved material in domestic sewage is not solid waste as defined in RCRA. A corollary is that such material cannot be considered a hazardous waste for purposes of RCRA.

The regulatory exclusion applies to domestic sewage as well as mixtures of domestic sewage and other wastes that pass through the sewer system to a POTW (see 40 CFR 261.4(a)(1)). The exclusion thus covers industrial wastes discharged to POTW sewers which contain domestic sewage, even if these wastes would be considered hazardous if disposed of by other means.

One effect of the exclusion is that industrial facilities which generate hazardous wastes and discharge such wastes to sewers containing domestic sewage are not subject to RCRA manifest requirements for the transport of those excluded wastes. However, such industrial users must comply with certain other RCRA requirements that apply to generators of hazardous wastes. Some of these requirements are set forth at 40 CFR 262.11 (determining whether a waste is hazardous), § 262.12 (obtaining an EPA identification number), § 262.34 (accumulation of hazardous wastes), § 262.40 (c) and (d) (recordkeeping), and § 262.43 (reporting). Other requirements may apply if the wastes are treated or stored prior to discharge.

Another effect of the Domestic Sewage Exclusion is that POTWs receiving mixtures of hazardous waste and domestic sewage through the sewer system are not deemed to have received hazardous wastes. Therefore, such POTWs are not required to meet the RCRA requirements of 40 CFR Part 264 for treating, storing, and disposing of these wastes. However, hazardous wastes delivered directly to a POTW by truck, rail, or dedicated pipe are not covered by the Domestic Sewage Exclusion. POTWs receiving these wastes are subject to regulation under the RCRA permit-by-rule (see 40 CFR 270.60(c)).

In 1984, Congress enacted the Hazardous and Solid Waste Amendments to RCRA. The legislative history of these amendments demonstrates that Congress wanted EPA to examine the effects of the Domestic Sewage Exclusion. To this end, section 3018(a) of the Hazardous and Solid Waste Amendments to RCRA required EPA to prepare:

> * * * a report to Congress concerning those substances identified or listed under section 3001 which are not regulated under this subtitle by reason of the exclusion for mixtures of domestic sewage and other wastes that pass through a sewer system to a publicly owned treatment works. Such report shall include the types, size, and number of generators which dispose of substances in

this manner, and the identification of significant generators, wastes, and waste constituents not regulated under existing Federal law or regulated in a manner sufficient to protect human health and the environment.

EPA submitted its report (the Study) to Congress on February 7, 1986. In performing the study, the Agency reviewed information on 160,000 waste dischargers from 47 industrial categories and the residential sector. Because of the nature of the available data sources, the Study provided estimates for the discharge of the specific constituents of hazardous wastes (e.g., benzene, acetone, etc.) rather than estimates for hazardous wastes as they are more generally defined under RCRA (i.e., "characteristic" wastes such as ignitable or reactive wastes, or listed wastes such as spent solvents, electroplating baths, etc.). The Study also provided more extensive estimates for those hazardous constituents which are also CWA priority pollutants. The CWA priority pollutant list was originally developed as part of a settlement agreement between the Natural Resouces Defense Council (NRDC) and EPA (*NRDC v. Train, 8 ERC 2120* (D.D.C. 1976)). This agreement required the agency to promulgate technology-based standards for 65 compounds or classes of compounds. Congress then incorporated this list of toxic pollutants as part of the 1977 amendments to the CWA. From the list of compounds or classes of compounds, EPA later developed a list of 126 individual priority pollutants.

EPA was able to give estimates in the Study on the types, sources, and quantities of many hazardous constituents discharged to POTWs. The Study provided information on industrial categories ranging from large hazardous waste generators (such as the organic chemicals industry) to the smaller generators (such as laundries and motor vehicle services). The Study also examined the fate of hazardous constituents once they are discharged to POTW collection and treatment systems and discussed the potential for environmental effects resulting from the discharge of these constituents after treatment by POTWs. The Study then measured the effectiveness of existing government controls in dealing with these discharges, particularly federal and local pretreatment programs and categorical pretreatment standards applicable to industrial users of POTWs.

After considering all the pertinent data, EPA concluded that the Domestic Sewage Exclusion should be retained at the present time. The Study found that CWA authorities are generally the best way to control hazardous waste discharges to POTWs. However, the Study also found that these authorities should be employed more broadly and effectively to regulate these discharges. The Study therefore recommended ways to improve various EPA programs under the CWA to obtain better control of hazardous wastes entering POTWs.

The legislative history of Section 3018 of RCRA displays Congress' understanding that the appropriateness of the Domestic Sewage Exclusion depends largely on an effective pretreatment program under the CWA. The pretreatment program (mandated by sections 307(b) and 402(b)(8) of the CWA and implemented in 40 CFR Part 403) provides that industrial users must pretreat pollutants discharged to POTWs to prevent the pollutants from interfering with or passing through POTWs.

As a follow-up to the Domestic Sewage Study, section 3018(b) of RCRA requires the Administrator to revise existing regulations and to promulgate such additional regulations as are necessary to ensure that hazardous wastes discharged to POTWs are adequately controlled to protect human health and the environment. These regulations are to be promulgated pursuant to Subtitle C of RCRA or any other authority of the Administrator, including section 307 of the CWA. As a first step towards promulgating the regulations called for by section 3018(b), the Agency published an Advance Notice of Proposed Rulemaking (ANPR) in the **Federal Register** on August 22, 1986 (51 FR 30166). In the ANPR, EPA made preliminary suggestions for regulatory changes, which, if promulgated, would improve the control of hazardous wastes discharged to POTWs. Secondly, the Agency also held three public meetings in Washington, DC, Chicago, and San Francisco to solicit additional comments on the ANPR. Finally, EPA met with several interested groups and organizations to obtain the benefit of their advice and expertise.

The comments received on the ANPR were summarized and discussed in a **Federal Register** notice published on June 22, 1987 (52 FR 23477). That notice also described all the activities which EPA is carrying out to fulfill the recommendations of the Study. Most commenters suggested ways to make the pretreatment program more effective in controlling hazardous wastes discharged to municipal wastewater treatment plants.

Today's notice proposes changes to the general pretreatment regulations in response to the findings and recommendations of the Study (for a summary of these findings and recommendations, see Chapter 7 of the Study). Today's proposal reflects EPA's response to the Congressional mandate of section 3018(b), its consideration of comments received on the ANPR, and its accumulated experience in shaping and overseeing the national pretreatment program. The amendments proposed today are more specific than the ideas presented in earlier notices. Consequently, commenters may wish to supplement earlier comments. The Agency solicits comments on all aspects of the amendments proposed today.

II. Proposed Changes

A. Specific Discharge Prohibitions

As part of its review of the national pretreatment program, the Study recommended modifying the prohibited discharge standards of the general pretreatment regulations to improve control of characteristic hazardous wastes and solvents.

The specific prohibitions forbid discharging certain types of materials which harm POTW systems by creating fire hazards, causing corrosion, obstructing flow, or creating heat which inhibits biological activity (see 40 CFR 403.5(b)). The Study and the ANPR discussed expanding these prohibitions to forbid the discharge of characteristic hazardous wastes under RCRA (i.e., wastes that are defined as hazardous under 40 CFR Part 261, Subpart C if they possess certain characteristics). These characteristics are ignitability, corrosivity, reactivity, and toxicity measured by the Extraction Procedure (EP) or Toxicity Characteristic Leaching Procedure (TCLP).

The majority of commenters who discussed this suggestion said that a blanket prohibition of characteristic RCRA hazardous wastes to POTWs would be inappropriate. These commenters stated that materials exhibiting these characteristics often lose their hazardous qualities when they are mixed with domestic sewage or treated at a POTW. The fact that a particular substance exhibits a RCRA hazardous waste characteristic does not necessarily indicate the likelihood of pass through or interference, these commenters believed, especially in the case of toxicity (EP or TCLP).

Other commenters supported adding these characteristics to the specific discharge prohibitions. These commenters often advocated modifying the characteristics to make them more relevant to conditions in POTW collection and treatment systems.

After considering this issue, the Agency has concluded that adding all the RCRA characteristics to the specific discharge prohibitions would not be appropriate, since substances exhibiting these characteristics do not necessarily pass through or interfere with POTW. However, EPA agrees with the commenters who stated that the current prohibitions could be improved by adopting into 40 CFR 403.5(b) certain RCRA characteristics in modified form. Following is a discussion of the Agency's proposed modifications.

1. Ignitability and Explosivity

The indirect discharge of ignitable materials has caused many documented cases of explosions and fires in POTW collection systems. The severity of these incidents ranges from narrowly averted fires to actual explosions which have killed POTW workers and destroyed the collection system and surrounding area.

These fires and explosions often happen near the point of indirect discharge. Temperatures in the collection system which are above the ambient temperature may promote evaporation of ignitable wastes and lead to fires and explosions. In addition, collection systems are generally closed to the atmosphere except at certain points such as manhole lids or storm drains. Thus, ignitable wastes within the collection system continually evaporate into a relatively fixed volume of air, readily forming vapors which cannot be dispersed to the open atmosphere.

Once these vapors are formed, the sources of ignition can include electric sparks from motors or generators, frictional heat, cigarettes, hot surfaces such as a manhole lid heated by the sun, or chemical heat generated by reactions occurring at the point of discharge. Explosions in POTW systems can damage the sewer, pumping stations, and (if the sewer caves in because of an explosion) roads and buildings above the sewer. POTW workers may suffer injuries from the force of an explosion, from burns, or from smoke inhalation, thus interfering with effective operation of the system. Finally, all fires or explosions will to some extent hinder the operation of the POTW by requiring the affected trunk line to be closed off during firefighting or later repairs.

The present specific prohibitions already forbid the discharge to sewers of materials creating a fire or explosion hazard. However, this narrative provision lacks specificity; it does not give industrial users or POTWs specific methods or limits to determine whether a wastewater discharge violates the prohibition. As a result, the prohibition has limited effectiveness as a preventive requirement. The standard is clearly violated only if there is an actual fire or explosion in the sewer, if an industrial user violates a local limit designed to implement 40 CFR 403.5 (a) and (b). The best way to prevent the discharge of ignitable pollutants (or mixtures) is to test or monitor the discharge for the characteristics of ignitability or exlosivity. However, the current prohibition does not require any such testing or monitoring.

To address this problem, the Agency is today proposing to amend 403.5(b) to forbid discharges with a closed cup flashpoint of less than 140° Fahrenheit (the RCRA standard for ignitable liquid waste under 40 CFR 261.21(a)(1)).

A flashpoint is the minimum temperature at which vapor combustion will spread away from its source of ignition. Below this temperature, combustion of the vapor immediately above the liquid will either not occur at all, or will occur only at the point of ignition. Temperatures above this flashpoint are needed for combustion to spread. Thus, a flashpoint limitation would ensure that no discharge to a POTW will independently cause the propagation of self-sustained combustion.

EPA chose the flashpoint of 140 degrees Fahrenheit as the RCRA standard for liquid ignitable wastes because typical industrial wastes are capable of being subjected to this temperature during routine management (studies indicated that this temperature can be reached in storage tanks during hot weather.) Typical industrial wastewater temperatures are considerably below 140 degrees Fahrenheit. In addition, ambient temperatures are not likely to meet or exceed this temperature, either at the point of discharge or in the sewer. For this reason, the Agency believes that the 140 degree flashpoint would also be an appropriate addition to the specific discharge prohibitions.

Although the 140 degree prohibition would be imposed upon wastewater discharges and not wastewater constituents, comparing the flashpoints of typical organic wastewater constituents provides a rough guide to the stringency of the flashpoint prohibition. In general, wastewater discharges would have to be at least as nonflammable as furfural or benzaldehyde to meet the flashpoint prohibition. The prohibition would not permit the undiluted discharge of volatiles such as benzene or ethyl alcohol.

The most appropriate way to test the flashpoint of wastewaters is a closed cup measure. The closed cup method most closely duplicates the collection of vapor in closed spaces such as sewers. For this reason, the Agency is proposing to prohibit discharges with a closed cup flashpoint of less than 140 degrees F. Closed cup testers are commonly used and are available from laboratory supply firms. The closed cup tests specified under RCRA and proposed to be required today are the Pensky-Martin closed cup tester and the Setaflash closed cup tester, using standard test methods specified in 40 CFR 261.21(a)(1). Not all industrial users will find it necessary to use such testers. Many will be able to determine the flashpoint of substances they discharge by using reference tables or other sources of information.

The Agency emphasizes that the proposed flashpoint prohibition applies to each industrial user's discharge independently. The prohibition will not necessarily address the flammability of discharges from multiple industrial users that are combined in sewers. Because of the effect of dilution in the sewer system, however, it seems reasonable to assume that the concentratrions of combustible constituents in sewer wastewaters will usually be well below the concentrations required for flammability if all industrial users comply with the flashpoint prohibition. In addition, EPS believes imposing a uniform criterion on industrial discharges would make POTW implementation and enforcement easier in some cases, since the flashpoint prohibition effectively prohibits the discharge of certain highly flammable substances in pure or concentrated form. For these substances, enforcement of the specific prohibition would be particularly easy because of the availability in technical literature of values for pure compounds.

EPA solicits comments on whether its proposed flashpoint prohibition is reasonable, unduly stringent, or insufficiently protective of POTWs under worst case conditions. Specifically, the Agency requests comments on whether such a prohibition would sufficiently take into account the effects (harmful or beneficial) of effluent mixing or dilution in a POTW system, and on whether there exists another technically feasible alternative that would take these effects into account while still being preventive.

It should be noted that an aqueous solution containing less than twenty-four percent alcohol by volume is not considered to be an ignitable waste under 40 CFR 261.21(a)(1). Because these substances may be discharged to POTW's in considerable quantities and they may wish to conduct appropriate monitoring, EPA is not proposing to exempt these liquids from its proposed prohibition of the discharge of pollutants

with a flashpoint of less than 140 ° Fahrenheit. However, the Agency solicits comment on whether the possibility of damage to POTWs from such substances is so slight that such an exemption would be appropriate.

In order to deal with the problems of mixing and dilution in the sewer, EPA evaluated various other prohibitions which would take these factors into account. The most practical option appears to be one which is already used by some POTWs. This is a prohibition based on the lower explosion limit (LEL) of an organic vapor mixture. The LEL of an organic vapor is the minimum concentration required to form a flammable or explosive vapor to air mixture. Under this procedure, the POTW measures the flammability or explosivity of an organic vapor in the sewer as a percent of the mixture's LEL, using an explosimeter. The POTW then identifies and quantifies (through vapor phase monitoring) the specific compounds responsible for an LEL exceedance registered on the explosimeter. The POTW may subsequently require certain industrial users to install gas monitoring equipment as appropriate. Many POTW technicians already use explosimeters to detect combustible vapors in sewers. In addition, many standard design requirements for oxygen activated sludge plants use LEL warning systems to prevent explosions in the recycled oxygen gas in the reactors. The warning system triggers an automatic shutdown of oxygen addition to the plant at some organic content below the LEL, as well as a flushing of the organic oxygen mixture from the reactor.

EPA is today proposing to amend 40 CFR 403.5(b) to provide that no discharge to the POTW shall result in an exceedance of ten percent of the LEL at any point within the POTW (including, e.g., the collection system). The Agency believes that this prohibition, used in combination with the flashpoint approach, could be very effective in preventing fires and explosions. The flashpoint prohibition is less expensive and easier to execute, but it is applied to the effluent before mixing in the sewer. The LEL measurements, on the other hand, are more costly and difficult to perform but are more effective in determing the explosivity of effluent mixtures under actual conditions in the sewer.

The effectiveness of either of these prohibitions depends largely on monitoring. The flashpoint test is perhaps more appropriate as an inexpensive way to monitor smaller dischargers who might occasionally discharge ignitable wastes, and hazardous waste haulers. It is a simple test that quickly identifies highly flammable substances and mixtures. LEL monitoring may be more useful when applied to significant dischargers who frequently or routinely discharge these substances, since large or frequent discharges would better justify the installation of continuous explosivity monitoring equipment that warns when a specified percentage of the LEL is reached. POTWs may also require industrial users to take other measure to prevent violations of the LEL prohibition, such as modifying their discharge practices.

The Agency solicits comments on whether the LEL prohibition is practical, either alone or in combination with the flashpoint prohibition. Specifically, EPA requests comments on whether it might be too difficult to link an LEL exceedance within the sewer system to discharges from specific industrial users, or whether the vapor phase monitoring needed to determine the causes of the exceedance would be too difficult or expensive. The Agency also requests comment on whether the flashpoint appproach or the LEL approach would be sufficient alone to prevent fires and explosions at POTWs.

2. Reactivity and Fume Toxicity

Wastes exhibiting the reactivity characteristic are regulated under RCRA because their extreme instability and tendency to react violently or explode make them a hazard to human health and the environment at all stages of waste management. In general, RCRA defines as reactive any waste which is an explosion hazard, generates harmful quantities of toxic gas or vapor when mixed with water, or reacts violently without detonation with water to generate elevated pressures and/or heat. EPA chose to adopt a narrative standard for reactive wastes because the varied effects and physical properties asssociated with these wastes are not easily quantifiable or measurable by standardized testing protocols.

Many commenters on the ANPR were concerned about the health and safety of workers at POTWs. There is no question that the generation of toxic gases and vapors can sometimes be dangerous to the safety and health of these workers, thus interfering with operations at the POTW and even endangering human life. In addition, the local general population could also suffer if sufficient quantities of toxic gases and vapors are released from sewer vents or aeration or containment basins.

Gases and vapors may be caused by chemical reactions between constituents of the industrial discharge and the receiving sewage, or microbial metabolism. In addition, some toxic gases can be generated as the result of sudden drops in pH. Besides generating toxic gases and vapors when mixed with sewage, industrial discharges may have sufficiently high concentration of toxic gases and volatile liquids to cause toxic levels of gas or vapor to form above the wastewater even if the discharge is diluted by the sewage. Sewer workers (and, in one instance, nearby residents) have been killed by inhaling hydrogen sulfide gas formed by the reaction of spilled substances with organic material in sludge or other materials.

Many of the existing specific discharge prohibitions will help prevent harm to POTW workers. Such harm, besides clearly constituting interference with POTW operations, is a serious concern for workers and operators at POTWs, as was expressed in the comments received in response to the ANPR. However EPA has never explicitly required POTWs to develop local limits to prevent this kind of interference. To address this question, the Agency is today proposing to amend 40 CFR 403.5(b) to provide that no discharge to the POTW shall result in toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems. EPA is also proposing to amend 40 CFR 403.5(c) to require POTWs to implement this prohibiton by establishing numerical discharge limits or other controls where necessary based on existing human toxicity criteria or other information. Industrial users would then be liable for any violations of these limits or controls.

The American Conference of Government Industrial Hygienists (ACGIH) annually publishes a list of threshold limit values (TLVs) for numerous toxic inorganic and organic chemicals. The threshold limit values represent estimated chemical concentrations in air below which harmful health effects in exposed populations are believed to be unlikely to occur. For each chemical listed, one or more types of threshold limits are listed. The three types of threshold limits are: (1) A concentration on which nearly all workers may be exposed day after day without adverse effects; (2) a concentration to which workers may be exposed continuously for a short period of time without suffering irritation, chronic tissue damage, or drowsiness sufficient to impair self-rescue or work

efficiency; and (3) a concentration that should not be exceeded during any part of the work day. If any one of these three threshold limits is exceeded, a potential hazard from that substance is presumed to exist.

Another approach used to control the health impacts of breathing volatile organic compounds has been developed by the Metropolitan Sewer District of Cincinnati. This approach features the use of a vapor headspace gas chromatographic analysis of equilibrated industrial wastewater discharge (one volume of wastewater to one volume of air head space) at room temperature (24 °C). The analysis procedure measures the total vapor space organic concentration by calculating the total peak area of the chromatogram expressed as parts per million (ppm) of equivalent hexane. It is not necessary to identify individual peaks. A 300 ppm equivalent hexane concentration was selected as a pragmatic local limit to minimize exposure hazards, since, although sewer workers should always use appropriate breathing devices, the 300 ppm limit minimizes the risk from accidental exposures. It reduces the likelihood that volatile organic levels in the sewer air space would exceed levels considered immediately dangerous to life and health.

A limitations of the 300 ppm equivalent hexane limit is that it does not ensure that the levels of individual volatiles will be below safe exposure levels. However, it should prevent concentrations of total volatiles from exceeding immediately dangerous levels, and would also eliminate many explosive or flammable hazards (except for spills or illegal discharges). Monitoring is done by a laboratory test that can be run by many wastewater treatment laboratories.

It should be noted that neither the Cincinnati approach nor the ACGIH criteria are designed to protect workers against long-term health effects from possible carcinogens, mutagens, and teratogens. However, EPA believes that this proposed amendment to the specific discharge prohibitions will help prevent the generation of quantities of toxic vapors at the POTW that are capable of causing acute health effects to POTW workers. In some cases the prohibitions could even prevent harm to the general public as well. POTWs may use such standards as those employed by the ACGIH and the Metropolitan Sewer District of Cincinnati to establish local limits or other criteria they find appropriate. These limits should give POTWs an effective way to implement and enforce the proposed prohibition.

EPA solicits comments on the addition of this prohibition to the general pretreatment regulations and on the feasibility of developing local limits to other controls from human toxicity criteria or other information such as those discussed above. The Agency requests comments on the practicality of such a prohibition, on alternative regulatory ways to protect worker health and safety, and on whether worker health and safety is adequately protected by the present general and specific discharge prohibitions.

3. Used Oil

EPA also solicits comment on amending 40 CFR 403.5(b) to prohibit the discharge of used oil to POTWs. The Agency has become concerned about the possibility that the volume of used oil disposed of by this method is increasing to the point of causing interference and pass through.

"Used oil" is generally any oil that has been refined from crude oil, used, and, as a result of such use, contaminated by physical or chemical impurities. Used oils include spent automotive lubricating oils, transmission and brake fluid, spent industrial oils such as compressor, turbine, and bearing oils, hydraulic oils, metalworking, gear, electrical, and refrigerator oils, railroad drainings, and spent industrial process oils.

The likely increase in volume of used oil discharged to sewers is due to several factors, chief among them the Domestic Sewage Exclusion, the RCRA land ban, and lower prices for crude oil which make it no longer economically profitable to store used oil. The Agency estimates that four to eight million gallons of used oil per year are dumped into sewers. There are currently no specific prohibitions against disposing of used oil in sewers, although the existing prohibitions forbid the discharge of pollutants which obstruct flow at the POTW. Used oil is often stored in 500 gallon tanks and transported in 3000 gallon tank trucks. Release of these volumes of oil has the potential to interfere with operations at POTWs, particularly in the case of smaller plants.

In addition, used oil can contain a variety of toxic or hazardous constituents such as PCBs, benzene, chromium, arsenic, cadmium, and lead. Examination of the composition of used oil generated in the United States showed that average levels of twelve pollutants found in waste oil are above the reportable quantities established in 40 CFR 302.4(a) as hazardous levels of these constituents under the Superfund Program. EPA has also conducted a study assessing the potential for pass through of these pollutants to surface waters and to sludge. Results showed that, when large volumes of used oil are discharged, there is a potential for pass through that can cause violations of water quality criteria (details of these analyses are contained in the record of this rulemaking). Many of the constituents in contaminated used oil, such as trichloroethylene and tetrachloroethylene, are highly water soluble and thus characterized by a high mobility potential. Metals such as arsenic, chromium, and lead are very persistent in the environment when released from the POTW in sludge or in wastewater effluent. Used oil is also an energy resource that might be better collected and recycled than discharged into POTWs.

For these reasons, the Agency requests comment on the possibility of amending 40 CFR 403.5(b) to forbid the discharge of used oil into POTWs. EPA solicits comments on the possible advantage and disadvantages of such a prohibition, and on which particular kinds of used oil should be prohibited.

4. Solvent Wastes

EPA also wishes to solicit comment on the possibility of amending the specific discharge prohibitions to prohibit the discharge of listed solvent hazardous wastes from non-specific sources as defined in 40 CFR 261.31 (EPA Hazardous Waste Nos. F001, F002, F003, F004, and F005).

These solvent listings (about 30 organic compounds) encompass spent solvents, spent solvent mixtures and still bottoms from the recovery of spent solvents and spent solvent mixtures. The compounds were listed on the basis of ignitability and/or toxicity. Less than one-half are currently designated as CWA priority pollutants.

Discharges of solvent wastes to POTWs have involved actual fires or explosions, or potential fires which caused evacuation of treatment plant buildings and unusual measures to protect treatment or collection systems (e.g., ventilation or flushing of sewer lines). The most frequent problem caused by solvent discharges is fume toxicity occasioned by volatilization in POTW collection and treatment systems. Many incidents have been documented involving worker illness, including nausea, shortness of breath, skin irritation, and headaches. Solvent discharges have also caused inhibition or upset of biological treatment systems in several instances, or interfered with

treatment plant operation in some other way. For example, in one case, the diversion of oxygen from an activated sludge treatment system due to the threat of fire or explosion resulted in a marked decrease in treatment plant efficiency.

In addition, the Agency has evidence that solvent discharges to POTWs may interfere with beneficial sludge management. Several sludges in sampling programs have approached TCLP failure due to concentration of solvents in leachate. Analysis of pollutant fate within POTW systems has shown that significant quantities of solvents pass through to receiving waters where biological treatment systems are not well acclimated to the pollutant in question. Moreover, pass through of solvent wastes will be substantially greater at POTWs operating at less than secondary treatment levels or experiencing major combined sewer overflow problems.

EPA solicits comments on the merits of amending the specific discharge prohibitions to forbid the discharge to POTWs of listed solvent wastes under 40 CFR 261.31 (EPA Hazardous Wastes Nos. F001, F002, F003, F004, and F005). Specifically, the Agency requests comment on whether existing local limits, the proposed amendments to the specific discharge prohibitions concerning ignitability and fume toxicity, and the proposed solvent management component of industrial user spill and batch control plans (see Part II–B below) would address most of the concerns discussed above, possibly making a ban on solvents redundant. A possible advantage of these proposed amendments is that they would address the discharge of organic compounds not used as solvents. This approach might be particularly useful in industries with significant loadings of non-volatile organic pollutants (e.g., pharmaceutical manufacturing, pesticides manufacturing, or other industries utilizing organics production or formulation processes). On the other hand, the RCRA listed solvent wastes include alcohols and ketones, which are very soluble in water, are often difficult to treat by physical or chemical treatment, and may be best treated by biological degradation processes such as those used at POTWs. The Agency solicits comment on whether the possible impacts of solvents on POTWs and receiving waters would justify prohibiting these wastes from being discharges to POTWs, and whether such a prohibition would be appropriate for those highly water-soluble solvent wastes which are more appropriately treated by degradation.

B. Spills and Batch Discharges (Slugs)

Spills and batch discharges present special challenges to POTWs. As documented by data on incidents at POTWs, these discharges can cause many problems at the treatment plant, including worker illness, actual or threatened explosion, biological upset or inhibition, toxic fumes, corrosion, and contamination of sludge and receiving waters. A recent survey undertaken by the Association of Metropolitan Sewerage Agencies (AMSA) indicated that spills to sewer systems were the most common source of hazardous wastes at the respondents' treatment plants.

The current general pretreatment regulations do not address these problems comprehensively. The principal pretreatment regulation concerning slugs is the requirement that all industrial users notify POTWs of slug loads of pollutant discharges that, because of flow rate or concentration, will interefere with the POTW (40 CFR 403.12(f)). On October 17, 1988 (53 FR 40562) EPA expanded this requirement to include notification of slug loads that would violate any of the specific prohibitions of 40 CFR 403.5(b).

In the ANPR, the Agency discussed the possibility of requiring POTWs to impose on industrial users plans for prevention and follow-up control of spills and batch discharges. Many commenters responded positively to this suggestion, although POTWs often stated that they wished to have maximum flexibility to address the particular concerns of their localities. Some POTWs submitted copies of their own control plans (such as ordinances, policies, and procedures). EPA has reviewed these plans and other ideas to determine which features might be suitable to include in a uniform national requirement. Following is a summary of the most frequent provisions that the Agency has found in its review of POTW control methods. It should be noted that the review included mainly larger POTWs, who represent only a small percentage of the approximately 1500 POTWs required to have local pretreatment programs.

In controlling spills and batch discharges to sewer systems, many POTWs rely upon the legal authorities contained in their sewer use ordinance or on conditions enforced through discharge permits issued to their industrial users. In general, most POTWs have not developed ways to specifically regulate batch discharges to the sewer. Batch discharges of industrial process wastewaters are usually regulated by the same ordinances or permits as continuous discharges, and must meet the same local and federal discharge standards. They may also be regulated individually through permit requirements on notification, monitoring and reporting. However, since some batch discharges can harm a sewer system, some POTWs do specifically regulate them, frequently by requiring industrial users to obtain permission from the POTW before batch discharges are allowed to take place.

Many POTWs, however, have developed methods to help prevent and control spills. The extent of regulation, and probably the effectiveness in controlling accidental spills, varies considerably among POTWs. Controlling spills larger depends on good faith efforts by the dischargers to carry out prevention and containment measures and to notify the POTW. POTWs cannot entirely predict or prevent accidental or intentional spills from happening, although they can inspect industrial user facilities to ensure that controls are in place and properly maintained. Knowledge by the POTW of all its industrial users and their potential for spills and batch discharges is essential to the control of such problems. In addition, POTWs may also find it necessary to undertake measures to detect whether a slug discharge has occurred and to respond to any damage caused by the discharge.

The most common element of POTW control plans is a requirement that industrial users notify the POTW of accidental spills that occur. This requirement may be contained in the sewer use ordinance or exist as a permit requirement. Some requirements are generic and only require notification. Others require a description and analysis of the spilled material and later notification of remedial measures. Some POTWs have developed notification forms, and some specify minimum reportable quantities or require notification only from significant industrial users.

Almost all POTWs' plans require generally that industrial users prevent spills from occurring. Some POTWs require the use of physical measures, such as building spill containment facilities (i.e., dikes or berms). Other POTWs require development of a spill prevention or materials management program, such as toxic organic (including solvent) management plans, best management practices, and emergency response procedures. At least one POTW gives its dischargers a detailed spill prevention checklist which

includes such items as history of and potential for spills, materials management procedures, tests for safety of storage tanks, transfer and pumping stations, and procedures for loading. Some POTW require the industrial user to submit spill follow-up reports describing the response to the spill and the steps taken to prevent a recurrence of the type of spill that occurred.

After considering the comments received on the ANPR and evaluating various control plans submitted by many POTWs, EPA is today proposing to amend 40 CFR 403.8(f)(2)(v) to provide that POTWs must evaluate each of its significant industrial users to determine whether such users need a plan to prevent and control slug discharges, i.e., discharges (including spills and batches) that could lead to a violation of any of the special prohibitions or otherwise cause problems at the POTW. This evaluation is proposed to be required at the same time that the POTW conducts inspection or sampling of a significant industrial user (for a discussion of the inspection and sampling requirements, as well as the definition of "significant industrial users", see Part II-G below). Under this procedure, POTWs would use the opportunity of an inspection or sampling to examine the operational practices and physical premises of a significant industrial user to decide whether these warranted the development of a plan to handle and prevent accidential spills or non-routine batch discharges.

In deciding whether a significant industrial user should have a slug control and prevention plan, the two most important criteria are generally the quantity and types of toxic or hazardous material stored at the facility and the potential for these materials to enter the sewer system. For example, if an industrial user stores quantities of chemicals warranting attention, but the facility has not floor drains, sump pumps, or other direct ways for these materials to enter the sewer, then the POTW may decide to accord low priority to that particular industrial user. If, on the other hand, toxic or hazardous materials are stored in a room with floor drains, the POTW may wish to consider that industrial user to be in a higher risk category. Similarly, the POTW may wish to use a certain volume or concentration of a stored chemical as a cut-off point for requiring a slug plan. Examples of such cut-off points include the reportable quantities used in the County of Los Angeles' wastewater ordinance, and the reportable quantities established under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) which are used as criteria by the Metropolitan Sewer District of Louisville and Jefferson County.

Another factor which POTWs may wish to consider in deciding which significant industrial users should have slug control plans is the extent to which the industrial user in question is already covered by a similar plan under RCRA. For example, generators of hazardous wastes who treat, store, or dispose of hazardous waste on-site are generally subject to the provisions governing accumulation of hazardous wastes (see 40 CFR 262.34). These provisions specify such measures as container use and management, personnel training, and procedures for emergency response. Which measures are required under § 264.34 generally depends on the amount of hazardous waste generated and the amount of time such waste remains on-site. After evaluating the physical premises of a significant industrial user and the practices and procedures developed by that user in response to other statutory requirements, a POTW may decide that these measures are a substitute for some or all of the measures that would be required under a slug control plan. Similarly, those industrial users who transport hazardous wastes or who dispose of such wastes by other means than the sewer system may be subject to the more stringent requirements of 40 CFR Part 264, such as general facility standards (including inspection requirements, personnel training, and location standards) prepardness and prevention (including facility design, required equipment, and arrangements with local authorities) and contingency and emergency procedures. If a significant industrial user is covered by such a plan, the POTW may decide that such measures are an adequate substitute for some or all of the elements required in a local slug prevention plan.

The Agency is also proposing to amend § 403.8(f)(2)(v) to provide that if the POTW decides that such a plan is warranted for a particular significant industrial user, the plan must contain, at a minimum, the following elements:

(1) Description of discharge practices, including non-routine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for promptly notifying the POTW of slug discharges as defined under § 403.5(b), with procedures for follow-up written notification within five days;

(4) Any necessary procedures to prevent accidental spills, including maintenance of storage areas, handling and transfer of materials, loading and unloading operations, and control of plant site run-off;

(5) Any necessary measures for building any containment structures or equipment;

(6) Any necessary measures for controlling toxic organics (including solvents);

(7) Any necessary procedures and equipment for emergency response; and

(8) Any necessary follow-up practices to limit the damage suffered by the treatment plant or the environment and to prevent recurrence of the type of spill that occurred.

The Agency believes that today's proposal would help many industrial users prevent and control harmful spills and batch discharges. EPA believes that the elements listed in today's proposal are the essential minimum requirements for uniform application in all approved local pretreatment programs. Since the proposal lists only the minimal elements of such plans, it should give POTWs adequate flexibility to decide the details of notification, prevention, and response procedures. The Agency notes also that the definition of significant industrial user proposed today allows POTWs to add or delete industrial users from this category according to the potential for adverse impacts at the POTW. This flexibility will allow POTWs to select the most appropriate candidates for such plans and to tailor the plans to meet conditions peculiar to their localities, a concern that was expressed by many commenters.

EPA solicits comments on all aspects of these proposed amendments. Specifically, the Agency requests comment on whether EPA should impose specific spill or batch control requirements directly on industrial users. As mentioned above, the changes to the general pretreatment regulations promulgated on October 17, 1988 (53 FR 40562) would require all industrial users, including those not covered by categorical standards, to notify the POTW of any slug load discharge which violates any of the specific discharge prohibitions. An advantage of imposing specific requirements directly on all industrial users is that discharges to all POTWs would be covered, not just the industrial users in approved local programs. In addition, POTWs would be saved the administrative burdens of evaluating and approving plans submitted by their industrial users. The Agency welcomes comments on whether these advantages would outweigh the loss of the flexibility allowed to POTWs in today's proposal.

The Agency also requests comment on whether the control plans proposed to

be required today should be limited to significant industrial users as defined in proposed 40 CFR 403.3(u) (discussed in Part II–G of today's notice), or expanded to cover all industrial users, or limited to other categories such as industrial users who submit notification of the discharge of hazardous wastes under proposed 40 CFR 403.12(p).

In addition, EPA requests comment on possible duplication between the requirements of 40 CFR 403.12(f) (notification of slug loads to the POTW), section 103(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), and section 304(b) of the Superfund Amendments and Reauthorization Act of 1986 (SARA). Section 103(a) of CERCLA requires that facilities (including indirect dischargers to sewers) which release a hazardous substance in a quantity greater than or equal to its reportable quantity (RQ) must notify the National Response Center. Section 304(b) of SARA requires such releases to be reported to local and state emergency planning commissions as well. Although section 101(10) of CERCLA provides an exemption from these notification requirements for "federally permitted" releases, including discharges to POTWs with approved pretreatment programs which are in compliance with pretreatment standards (see 53 FR 27268, July 19, 1988), the exemption will not apply to slug discharges. This, if an industrial user discharges a slug load of one of 721 CERCLA hazardous substances which is equal to or exceeds the CERCLA RQ for that substance, the industrial user discharging such a slug must notify the National Response Center, the local emergency planning committee established pursuant to section 301(c) of SARA, any State emergency planning committee for a State likely to be affected by the discharge, and the local POTW.

The Agency requests comment on whether these notification requirements are duplicative and unduly burdensom, and if so, on how they could be improved. In the **Federal Register** notice of July 19, 1988 proposing the regulatory definition of federally permitted releases (53 FR 27268), EPA stated that the Administrator would consider establishing an administrative exemption from CERCLA notification requirements if it appeared that certain releases pose no hazard or pose a hazard only rarely and under circumstances that would not likely result in any action being taken to respond to the hazard. At the present time, the Agency has no data indicating that slug discharges equal or exceeding CERCLA RQs do not pose a hazard, or that action (other than the POTW's response) is unlikely to be taken to respond to such a discharge. Nevertheless, EPA solicits comment on the appropriateness of proposing such an administrative exemption in the future. The Agency is particularly interested in any technical data which might demonstrate whether discharges to POTWs of an RQ or more of any or all CERCLA hazardous substances present little danger of pass through or interference, or whether such discharges are most appropriately handled by the POTW even if such danger exists.

Alternatively, EPA solicits comment on the usefulness of exempting industrial users from having to notify the POTW of those slug discharges for which they have submitted CERCLA notification. This might be especially appropriate if POTWs were included on the local emergency planning committees establshed under section 301(c) of SARA.

In order to help POTWs implement slug control requirements, the Agency plans to issue a guidance manual for use in controlling and preventing accidental spills and batch discharges. The manual will include suggested methods for spill prevention by industrial users and response by POTWs, as well as suggested ways to control batch discharges by pretreatment permits and sewer use ordinances.

C. Trucked and Hauled Wastes

Many commenters on the ANPR expressed concern about discharges from liquid waste haulers. The Study recommended strengthening controls on these dischargers, and in June 1987 the Agency issued guidance to help POTWs control the discharge of such wastes to their systems (*Guidance Manual for the Identification of Hazardous Wastes Delivered to Publicly Owned Treatment Works by Truck, Rail, or Dedicated Pipe*). As a further response to the Study's recommendation, EPA had suggested in the ANPR prohibiting the introduction of hazardous wastes to sewer system by truck except at discharge points designated by the POTW.

Many commenters responded positively to this suggestion. Many POTWs already prohibit the introduction of any trucked wastes to the sewer except at designated discharge points (some ban only the introduction of non-septic wastes). In response to these comments, the Agency is today proposing to amend 40 CFR 403.5(b) to prohibit the introduction to POTWs of any trucked or hauled pollutants except at discharge points designated by the POTW. EPA emphasizes that discharging hazardous wastes at transfer stations or discharge points (i.e., sewer manholes) without a RCRA permit would violate RCRA generator and transporter requirements under 40 CFR Parts 262 and 263 and thus is already illegal. Therefore, the principal new legal effect of today's proposed amendment would be to prohibit the discharge of trucked non-hazardous wastes to POTWs except at designated discharge points. Practically, however, this proposed requirement would give POTWs better control of *all* wastes into their systems (including hazardous wastes) by encouraging them to designate certain discharge points that they could monitor and, if such monitoring showed that wastes were hazardous, to prevent the introduction of undesirable wastes into the sewer system.

EPA solicits comments on the merits of this proposal. Specifically, the Agency requests comments on whether the proposed prohibited discharge standard is too extensive and should be limited to non-septic wastes only. EPA also requests comment on whether to require POTWs to develop and obtain approval of additional procedures to deal with trucked or hauled wastes (such as monitoring and sampling), or on whether to amend 40 CFR 403.8 to require POTWs to specify particular discharge sites. The Agency points out that truckers or haulers of wastes to POTWs are industrial users within the meaning of 40 CFR 403.3 (g) and (h). As such, they are already subject to the prohibited discharge standards (and the notification requirements of 40 CFR 403.12, if they transport wastes for categorical discharges or if they discharge slug loads). In addition, approved local pretreatment programs must include inspection, surveillance and monitoring programs to ensure that all industrial users (including truckers and haulers) comply with the pretreatment requirements. POTWs must, in other words, include some procedures (tests, manifests, reports, etc.) to obtain information from transporters about their wastes before these wastes can be accepted. POTWs need not await amendment of the current pretreatment regulations to begin enforcing these local provisions. However, EPA solicits comment on whether other procedures would be appropriate especially for trucked and hauled wastes, such as requiring POTWs to conduct analyses of trucked wastes so that hazardousness and

compatibility of the wastes with POTW operations could be determined.

D. Notification Requirements

Notifying POTWs of hazardous waste discharges is essential to the control of such wastes. Without workable notification requirements, any further attempt to control hazardous pollutants is difficult if not impossible.

Section 3010(a) of RCRA requires that any person who generates or transports a RCRA hazardous waste, or who owns or operates a facility for the treatment, storage, or disposal of such waste, must file a notification with EPA or with a State with an authorized hazardous waste permit program. Section 3018(d) of RCRA (enacted as part of the Hazardous and Solid Waste amendments in 1984) clarifies that wastes mixed with domestic sewage are also subject to this notification requirement.

EPA has not yet promulgated regulations to implement the section 3018(d) notification requirements. The Study recommended that these requirements be implemented to ensure that regulatory authorities were aware of discharges of hazardous wastes to POTWs. In the ANPR, the Agency suggested amending the general pretreatment regulations to require that industrial users notify POTWs (rather than EPA or the State) of any hazardous wastes discharged.

Commenters expressed very strong support for the notification requirements discussed in the ANPR. Many POTWs stated that such notification was essential to give owners and operators of treatment plants notice of hazardous wastes entering their treatment and collection systems. Some commenters urged notification of State permitting authorities as well. One commenter stated that industrial users should be required to notify EPA of such discharges, because section 3018(d) required it and because such notification would give the Agency more information about the sources and quantities of hazardous wastes entering POTWs, which would generally improve EPA oversight of local pretreatment programs.

EPA is today proposing to amend 40 CFR 403.12 to add a new paragraph (p) to require that all industrial users notify EPA Regional Waste Management Division Directors, State hazardous waste permitting authorities, and their POTW of any discharge into the POTW of a substance which is a listed or characteristic waste under section 3001 of RCRA. Such notification must include a description of any such wastes discharged, specifying the volume and concentration of the wastes, the type of discharge (continuous, batch, or other) and identifying the hazardous constituents contained in the listed wastes. The notification must also include an estimate of the volume of hazardous wastes expected to be discharged during the following twelve months. The notification must take place within six months of the effective date of today's proposed amendments.

Small quantity generators would be exempt from these notification requirements during any calendar month in which they generate no more than one hundred kilograms of hazardous wastes, except for certain acute hazardous wastes under 40 CFR 261.5 (e), (f), (g), and (j). Generation of more than one hundred kilograms of hazardous waste in any given month would render this exemption moot and would require one-time submission of the notification. Subsequent months during which the industrial user generated more than one hundred kilograms per month would not require submission of additional notifications, except for the above-mentioned acute hazardous wastes.

In the case of new regulations under section 3001 identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW of the discharge of such substances within ninety days of the effective date of such regulations (except for the small quantity generator exemption discussed above).

Under the amendments proposed today, these are one-time notification requirements which do not apply to pollutants already reported under the self/monitoring provisions of 40 CFR 403.12 (b), (d), and (e), nor to pollutants already reported under the "changed discharge" requirements of 40 CFR 403.12(j). However, to clarify that § 403.12(j) also applies to the discharge of hazardous wastes, the Agency is today proposing to amend that provision to provide that all industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including changes in the volume or character of any listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under proposed § 403.12(p).

To ensure further control of hazardous wastes discharged to sewers, proposed § 403.12(p) would require all industrial users who submit notification of the discharge of hazardous wastes to certify that they have a program in place to reduce the volume and toxicity of non-categorical hazardous wastes generated to the degree they have determined to be economically practicable, and that they have selected the method of treatment, storage, or disposal currently available which minimizes the present and future threat to human health and the environment. It should be noted that a similar certification requirement already applies to all generators of hazardous wastes under section 3002(b) of RCRA.

Even though section 3010 mandates only a one-time notification, it has been suggested that requiring industrial users to submit notification of all hazardous waste discharges would burden POTWs, EPA, and States with paperwork even where the quantity of wastes discharged was very small. To address these concerns, EPA has proposed the exemption from the notification requirements of those facilities that generate no more than 100 kilograms of hazardous waste per calendar month. Under 40 CFR 261.5(c), these generators are exempt from most RCRA requirements, including the notification requirements of section 3010, during a calendar month in which they generate no more than 100 kilograms of hazardous waste (not including certain acutely hazardous wastes). This exemption, if promulgated, would be consistent with RCRA program requirements and might save POTWs and industrial users the time and expense associated with notifications of small amounts of hazardous wastes. On the other hand, the exemption might allow the generation and discharge into sewers of up to 100 kilograms per month of hazardous wastes without notification, an exemption which some POTWs (particularly smaller ones) might not regard as justified.

Similarly, EPA solicits comment on whether any of the existing RCRA forms might be suitable for submission of the proposed notification requirements. The Agency also notes that certain industrial users (those with over ten employees who discharge certain listed toxic chemicals) are required under section 313 of SARA to complete annually a Toxics Release Inventory Form (EPA Form R) and submit this form to EPA and the State where the industrial user is located. EPA requests comment on whether those industrial users required to submit Form R should send a copy of Form R to the POTW in lieu of today's proposed hazardous waste notification requirements, if the toxic chemicals reported by the industrial user on Form R include those RCRA hazardous wastes for which notification would be required under today's proposal. The Agency also requests comment on

whether additional (or more specific) management requirements should be required to control wastes for which notification would be submitted under this proposal.

E. Individual Control Mechanisms for Industrial Users

As a way to carry out local pretreatment programs and implement local limits more effectively, the Agency discussed in the ANPR the possibility of requiring POTWs to use a permit system as the basis of their pretreatment programs. In responding to this suggestion, some commenters opposed such a requirement, stating that the quality of local controls for industrial users should be evaluated individually. Other commenters believed that such a program was essential for consistent and enforceable requirements. A few industry commenters believed that a permit system would result in better notice of the duties required of industrial users.

Audits conducted of local pretreatment programs have led EPA to question whether many exisitng control mechanisms are adequate to ensure compliance with applicable pretreatment requirements. To address this concern, and after evaluating ANPR comments on this subject, the Agency is today proposing to amend § 403.8(f) to require that POTWs with approved programs must have the legal authority to issue individual discharge permits or equivalent control mechanisms to industrial users identified as significant under proposed 40 CFR 403.3(u) (this definition is discussed below in Part II-G). Such control mechanisms shall contain, at a minimum, the following:

(1) Statement of duration (in no case more than five years);

(2) Statement of non-transferability without prior POTW approval;

(3) Applicable effluent limits based on categorical standards and local limits;

(4) Applicable monitoring, sampling, and reporting requirements;

(5) Notification requirements for slug discharges as defined in § 403.5(b); and

(6) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements.

EPA believes that individual control mechanisms are the best way to ensure compliance with applicable pretreatment standards and requirements by significant industrial users. A permit system will give the industrial user clear notice of all the pretreatment requirements to which it is subject under both federal regulations and local program provisions. Such a system should make it easier for such users to perform effective pretreatment measures before a violation can occur, rather than after. The Agency solicits comments on the merits of this proposed amendment. Specifically, EPA requests comments on: (1) The appropriateness of limiting the requirement to industrial users defined as significant under proposed 40 CFR 403.3(s), or of additional or alternative targets, such as categorical users or notifiers of hazardous waste discharges under proposed § 403.12(p); (2) whether the requirement should apply only to POTWs with more than a specified number of industrial users (and, if so, what number would be appropriate as a cut-off point); and (3) whether the list of permit conditions proposed today should be contracted, expanded, or modified.

F. Implementing the General Prohibitions Against Pass Through and Interference

The Study and the ANPP discussed three principal ways to enhance implementation of the general discharge prohibitions against pass through and interference. These three ways were: (1) Requiring that water quality-based permit limits for additional constituents of hazardous wastes be incorporated into NPDES permits issued to POTWs; (2) moving aggressively to set toxicity-based limits in NPDES Permits issued to POTWs; and (3) requiring POTWs to develop local limits for problem pollutants even if no POTW permit violation occurs or is threatened.

The Agency received many comments about the relative virtues and drawbacks of the various ways to control pass through and interference. These comments are discussed below. Also included is a discussion of forthcoming sludge control requirements that should result in improved local limits to prevent interference.

1. Water Quality-Based Permit Limits

The most favored method of preventing pass through was incorporating more water quality-based limits in permits issued to POTWs. POTWs could then use these permit limits to back-calculate local limits to prevent pass through or interference.

The Agency believes that the requirements of section 304(l) of the CWA, as amended, and EPA's ongoing toxics control program will result in an increase in the numbers of water quality-based limits in NPDES permits issued to POTWs. The provisions of section 304(1) require a progressive program of toxic pollutant control. Under this section, States must develop several lists of impaired waters, including waters where technology-based controls and existing water quality-based controls are not adequate to meet water quality standards for the priority pollutants or adequate to protect designated uses.

To further provide for the improvement of water quality, section 304(l) requires the development of individual control strategies for waterbodies which are impaired substantially or entirely due to point source discharges (including POTWs) of section 307(a) toxic pollutants. Under this provision, States must identify (within two years of enactment of the amendments) waters that are unlikely to comply with water quality standards after implementation of technology-based requirements. States must then identify particular point sources (including POTWs) that may be causing the violation of standards in those waters and develop individual control strategies to reduce toxics and meet standards in such waters not later than three years after the strategy is established.

Section 304(1) directs immediate attention to establishing controls where there are known impacts due entirely or substantially to point source discharges of section 307(a) toxic pollutants. The Agency has prepared draft final guidance for States and EPA Regions on how to address these problems within the available control mechanisms and data. The guidance also directs States and EPA Regions to address all known sources of toxicity in receiving waters (including hazardous constituents) as required by sections 301(b)(1)(C), 303(c), 303(d), 303(e), 401, and 402(a), of the CWA. EPA regards the new statutory requirements to control point sources as part of the ongoing national program for toxics control. Initially, all known problems due to any pollutant are to be controlled (using both new and existing statutory authorities) as soon as possible, even if the problem does not involve section 307(a) pollutants.

As stated above, most commenters on the ANPR believed that increasing the use of water quality-based limits in NPDES permits issued to POTWs is the best way to help POTWs develop local limits to control the pass through of toxic and hazardous pollutants. The Agency believes that the individual control strategies mandated by the CWA amendments and the ongoing national toxics control program will increase the number of such permit limits, which POTWs can use to derive the necessary local limits.

2. Sludge Control

Another provision of the amended CWA has far-reaching implications for the development of local limits. These are the provisions dealing with the regulation of sewage sludge. The amendments set forth a comprehensive program for reducing environmental risks and maximizing the beneficial uses of sludge. The amendments mandate the promulgation of technical criteria for toxic pollutants in sweage sludge and the specification of acceptable sludge management practices, and require that these standards be implemented through permits. To carry out these requirements, EPA is currently developing acceptable contaminant levels and management practices for an initial group of toxic pollutants for the five major sludge use and disposal options: Land application, distribution and marketing, incineration, landfilling, and ocean disposal (although not all pollutants will be regulated for each option).

In addition to calling for the promulgation of technical criteria for the use and disposal of sewage sludge, the 1987 amendments to section 405 also contain a significant departure from previous statutory provisions regarding implementation. The amendment applies the requirements to all persons and further requires that the above technical criteria and management practices be included in an NPDES permit unless such criteria have been included in a permit issued by one of several other listed federal permit programs or an approved State program. This means that, for the first time, permits will be the required way to implement the federal technical criteria. When the sludge criteria are promulgated, NPEDES permits issued to POTWs or other treatment works treating domestic sewage must include these requirements unless they are included in another appropriate permit. These requirements can be used by POTWs to calculate the local limits necessary to allow for the widest range of sludge use and disposal options.

Section 405 as amended also requires that, before promulgation of the criteria, the Administrator shall impose conditions in permits issued to POTWs under section 402 or to take such other measures as the Administrator deems appropriate to protect public health and the environment from adverse effects which may occur from toxic pollutants in sewage sludge. To incorporate sludge limits into permits before promulgation of such criteria, such limits will have to be developed on a case-by-case basis. To implement this requirement, the Agency is preparing guidance for EPA Regions and States. The guidance will set forth all existing federal and State requirements, and will recommend sludge contamination limits and management practices based on current EPA and State requirements. These limits and practices can also be used by POTWs to begin developing the appropriate local limits.

3. Toxicity-Based Permit Limits

Commenters on the ANPR also expressed general support for the use of toxicity-based limits in NPDES permits issued to POTWs, although some commenters were concerned about the technical difficulties involved in setting permit limits in response to such testing. As a supplement to limits based on numerical standards for specific chemicals, the Agency has strongly encouraged NPDES permitting authorities to establish toxicity testing requirements in municipal permits and to develop whole effluent toxicity-based permit limitations as appropriate to control toxicity to aquatic life. It should also be noted that the expanded use of biomonitoring was one of the principal recommendations of the Study. EPA has encouraged this approach to controlling toxic effluents for several reasons. First, it allows POTWS and permit writers to assess certain toxic effects (such as lethality, growth, and reproductive success) of a complex mixture by integrating the interactions of the constituents into a single measure. Second, toxicity-based permit limits provide a numeric target for measuring violations of the narrative standard "No toxics discharged in toxic amounts". This approach allows the investigation of the cause of toxicity through toxicity reduction evaluations (TREs). A TRE is a study which uses toxicity tests to find ways to reduce or control effluent toxicity. Such tests can be used in a TRE to find the specific toxicant or toxicants causing effluent toxicity and to identify a treatment which reduces or eliminates unacceptable toxic effects. Toxicity-based permit limits can also be particularly useful where national categorical pretreatment standards do not adquately address local toxicity problems and/or where there are no numerical criteria currently available, as is the case for most toxic and hazardous constituents.

In encouraging the use of toxicity testing, the Agency has recommended that testing requirements be based on the technical recommendations in the *Technical Support Document for Water Quality-Based Toxics Control,* hereafter the "TSD" (EPA 440/4–85–032, September, 1985). This document describes the rationale for whole effluent toxicity controls and the action to be taken to access receiving water effects. It recommends a series of toxicity screening tests based on effluent dilution. Permit writers can use the results of the screening tests to determine if additional testing requirements, local limits, and/or toxicity limits in the permit should be established.

Because EPA believes that toxicity evaluation is an essential step towards developing sound NPDES permit limits and local limits to control toxic and hazardous pollutants, the Agency is today proposing to amend 40 CFR 122.21(j) to require that *all* existing POTWs conduct whole effluent toxicity screening and/or definitive toxocity testing and submit the results of such screening or testing as part of their NPDES permit applications. The Agency anticipates that permits writers will use the toxicity screening information generated for the permit application to justify permit limitations and toxicity reduction evaluations when the testing reveals water quality standards violations. The toxicity information will also form the basis for monitoring requirements and other permit conditions, when appropriate, to ensure ongoing compliance with water quality standards.

The screening which the Agency is proposing to require is adapted from the TSD because this document is in wide use and has proved to be a useful tool for conducting such protocols. First, an initial dilution screen should be performed. The POTW should compare the flow rate of its receiving stream (in terms of the design low flow specified by the State) to its effluent design flow rate. For marine, estuarine, and standing water discharge situations, dilution can be calculated using existing State standards and corresponding allowable dilution calculation procedures.

If dilution exceeds 10,000 to 1, and there is a reasonable rapid mix of the effluent outside of the initial dilution area in the receiving water, the effluent need not be tested further. If dilution is less than 10,000 to 1, *or* mixing is not rapid and toxicity within a plume is of concern, then toxicity screening tests are proposed to be required as follows:

(1) In cases where dilution is between 1,000 to 1 and 10,000 1, *or* where a poorly mixed effluent plume in a large receiving water is of concern (even with greater dilution), acute toxicity screening tests must be performed by collecting six effluent samples in one day (grab or short-term composite) each quarter over a one-year period. Twenty-four hour

screening tests must then be conducted in 100% final effluent, using an invertebrate species and a fish species in each sample, and following the protocols specified in *Methods for Measuring the Acute Toxicity of Effluents to Aquatic Organisms,* Peltier, W. and C.I. Weber, 3rd edition, 1985, EPA 600/4–85–013. The Director (i.e., the Regional Administrator or the State NPDES Director) may require alternative tests procedures and may require the submission of definitive testing data, generated according to procedures specified by the Director, to replace or supplement the screening test data specified above.

(2) If dilution is less than 1,000 to 1 but greater than 100 to 1, chronic toxicity screening tests must be performed by collecting six samples (24-hour composite) on six successive days each quarter over a one-year period. Seven-day static screening tests must then be conducted in 100% final effluent, using an invertebrate species and a fish species, daily composite samples to renew test solutions, and following protocols specified by the Director. The Director may require alternative test procedures and may require the submission of definitive testing data, generated according to procedures specified by the Director, to replace or supplement the screening test data specified above.

(3) If dilution is less than 100 to 1, screening is in appropriate, since at these ambient concentrations even minimally toxic effects can cause unacceptable toxicity. Instead, definitive toxicity data generation shall be performed according to procedures required by the Director.

Today's proposal would require the results of any acute or chronic toxicity screening or testing performed above to be submitted to the Director as part of the POTW's NPDES permit renewal application. The current regulations (§ 122.21(d)(1)) require that existing POTWs must submit permit renewal applications at least 180 days before the currently effective permit expires. The Director may grant permission to submit the application at a later date (but not later than the expiration date of the existing permit). Therefore, any screening or testing required under the above procedures should be commenced in time to be completed before the 180-day deadline.

To address States with screening and testing procedures that are equivalent to those proposed above, the agency is also proposing to allow the POTW to use such equivalent procedures if they are accepted by the Director. However, the Agency solicits comment on other definitive data generation procedures that would be appropriate for inclusion in NPDES permit applications, and on whether follow-up corrective measures to reduce toxicity should be specified in 40 CFR Part 122. For example, POTWs might be required to follow the recommendations of the TSD on definitive data generation, using uncertainty factors and dilution data. Where the effluent is shown to have toxic impact (as defined in the TSD trigger mechanism), corrective action could be required.

An alternative method of collecting definitive toxicity data might be to require POTWs with high dilution ratios (1000 to 1 or greater) to conduct acute tests on three species quarterly for the year preceding submission of the permit application, while POTWs with low dilution ratios (less than 1000 to one) might be required to conduct chronic tests on three species quarterly. Still another option is requiring POTWs with approved programs to conduct both acute and chronic toxicity tests on three species once a month for a year before submission of the permit application, while all other POTWs might be required to conduct the same test but at a reduced frequency, such as quarterly. Where the effect concentrations exceed the allowable dilution (as defined by the State standards) corrective measures to reduce toxicity would be required.

Corrective measures to reduce toxicity include toxicity-based permit limits (which should in any event be required in case of a violation of State water quality standards), requiring further testing, or toxicity reduction evaluations (TREs). The Agency has recommended guidelines for making decisions in the TSD. If the Director requires further testing to generate more definitive data, the Agency has recommended several methods manuals for conducting such testing (see, e.g., the above-mentioned *Methods for Measuring the Acute Toxicity of Effluents to Aquatic Organisms,* Peltier, W., and C.I. Weber, 3rd edition, 1985, EPA Office of Research and Development, Cincinnati, Ohio, EPA–600/4–85–013; *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms,* Horning, W., and C.I. Weber, EPA Office of Research and Development, Cincinnati, Ohio, EPA–600/4–85–014; *Short-Term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Marine and Estuarine Organisms,* Horning, W., and C.I. Weber. These methods, where properly followed, should give a valid assessment of potential water quality impact.

As discussed above, TRE's may be necessary to bring a discharger into compliance with a toxicity-based permit limit. A TRE is a study which employs toxicity tests and various types of treatment to identify specific ways to reduce effluent toxicity. The effluent is subjected to typical laboratory techniques such as aeration, filtration, and fractionation. After each step, toxicity tests are conducted on altered and unaltered effluent. The toxicity is then attributed to compounds removed or neutralized in that step at which the toxicity is significantly reduced. If a pollutant is identified as the cause of the toxicity, it can be limited in the permit and then controlled through permit limits. If a treatment option (such as filatration) is shown as capable of reducing toxicity, the POTW can pursue that treatment to meet its whole effluent toxicity requirements. A TRE can thus be used to set limits for specific toxicity-causing pollutants or to identify a treatment which will reduce toxicity to the level required by a toxicity-based permit limit. TREs can be conducted before permit issuance, under a permit compliance schedule, or in response to an administrative order. Protocols for conducting TRE's are currently available in draft from EPA's Office of Water Enforcement and Permits.

The Agency believes that these proposed requirements for detecting and controlling toxicity will help to achieve better control of toxic and hazardous wastes discharged from POTWs. The need to assess and control these pollutants should not be underestimated. EPA's proposal to require toxicity testing by POTWs is based upon evidence that these sources continue to discharge toxic substances (including hazardous constituents) in significant amounts.

The Agency emphasizes that whole effluent toxicity-based controls are a complement to and not a substitute for chemical-specific controls. Neither of these methods is by itself sufficient to control adverse toxic impacts in all cases. Permitting authorities also need the results of chemical effluent monitoring in order to develop effective permits for POTWs. To this end, the Agency plans to propose this year new application requirements for POTWs, along with a form to be used in submitting the application. This proposal will solicit comment on requiring POTWs to test their effluent for (at a minimum) the CWA priority pollutants. The final application requirements, when promulgated, should incorporate requirements for both whole

effluent and chemical-specific monitoring.

4. Control of Indirect Dischargers: Alternative Approaches

A. *General issue.* The amendments proposed in Parts A–E above will help POTWs address incidents that affect plant efficiency and should provide additional assurance that POTWs can function properly and comply with their permits at all times. It should be noted that although the agency's concern in the amendments proposed today is primarily with hazardous and toxic pollutants, EPA encourages POTWs to adopt these mechanisms as necessary to deal with any pollutant of local concern. In addition, EPA believes that in some cases further measures are necessary to give POTWs adequate control of wastes discharged to sewers. This belief was supported by commenters on the ANPR who expressed concern that existing local limits and categorical standards were not sufficient to deal expeditiously with harmful quantities of such wastes entering POTWs.

This concern is largely attributable to two causes: (1) The inherent limitations of categorical standards and local limits developed to prevent violations of NPDES permits issued to POTWs and (2) the likely increase in volume of hazardous and toxic wastes discharged to POTWs. To address such environmental concerns and to respond adequately to the Congressional directive of section 3018(b), the Agency has considered how best to exercise its broad authority to control these discharges in a way that is effective, expeditious, and administratively acceptable.

b. *Nature and scope of environmental concern.* The Study was expressly mandated by Congress to determine whether Clean Water Act programs could control the discharge of hazardous wastes to POTWs for adequate protection of human health and the environment. Although the Study recommended retention of the Domestic Sewage Exclusion, it also concluded that the level of many hazardous constituents in POTW wastewaters (particularly organic compounds) raised concerns about potential effects on human health, the environment, and POTW operations. Even after full implementation of pretreatment standards, large amounts of hazardous, toxic, and carcinogenic chemicals are discharged to POTWs. To illustrate the scope of the problem, the Study estimated that:

- 7,260,000 pounds of hazardous metal constituents are discharged to POTWs each year even after implementation of categorical pretreatment standards.
- Between 81,400,000 and 132,000,000 pounds of priority hazardous organic constituents are discharged to POTWs each year even after implementation of categorical pretreatment standards.
- Approximately 138,600,000 pounds of nonpriority hazardous constituents (mostly organics) are discharged to POTWs each year, few of which are regulated by categorical standards. The organics industries alone are estimated to discharge wastewater containing twice as many pounds of nonpriority organic constituents as priority organic constituents.
- For the indirect dischargers in the pharmaceutical manufacturing category, total cyanide is currently the only pollutant regulated under categorical pretreatment standards. Yet significant loadings of hazardous constituents are discharged by this industry, especially methanol, acetone, ethyl acetate, xylene, chloroform, methlyene chloride, and toluene.
- Pesticide manufacturing is another significant discharger of hazardous constituents to POTWs including benzene, chlorobenzene, and toluene.

The Study expressed concern about the incomplete coverage of organics by categorical standards (such as pharmaceuticals) and the fact that unregulated or emerging industries are also likely to be significant sources of hazardous waste discharges. These industries include hazardous waste treatment, solvent and oil recovery, and service-oriented industries such as transportation sources that tend to discharge variable quantities of toxic pollutants. Some of the organics discharged from both categorical and noncategorical industries are subject to less than 50 percent removal at unacclimated POTWs. As a particular example of an expanding industry whose wastewaters are not specifically addressed by categorical standards, the Study cited hazardous waste treatment and disposal facilities and noted that almost all RCRA characteristic and listed wastes have been reported as potentially present in discharges from these facilities.

In addition, it should be noted that estimated loadings of hazardous constituents found in the Study from all industries are likely to be conservative. Lack of precise data on nonpriority constituents could easily mean that the figures estimated by the Study are low, and as more research is done into the effects of various toxic and hazardous pollutants, the list of pollutants of concern may increase. More importantly, loadings of hazardous wastes to POTWs are almost certain to increase in the future due to the Domestic Sewage Exclusion, the virtual ban under RCRA of liquid wastes in landfills, and the development of many new toxic chemicals every year. This likely increase argues for the need to take action to reduce these loadings.

The Agency's concern about these massive loadings is heightened by the fact that some hazardous constituents are toxic in very low amounts. For example:

- Cyanide is chronically toxic to freshwater aquatic organisms at concentrations above 5.2 ug/1.
- Benzene is chronically toxic to marine aquatic organisms in concentrations above 0.7 mg/1.
- Silver is acutely toxic to freshwater aquatic organisms in concentrations above 4.1 ug/1.

The Study devoted considerable effort to examining the potential effects on environmental media from hazardous constituents discharged to POTWs. Modeling techniques were used to project likely instream concentrations of certain hazardous constituents, which were then compared to applicable aquatic and human health criteria and standards to determine potential impacts on surface water quality (full compliance with categorical pretreatment standards was assumed). The modeling techniques revealed that some projected loadings of hazardous constituents exceeded water quality criteria even after imposition of categorical standards (pollutants of concern included cadmium, silver, chromium, copper, mercury, lead, cyanide, and zinc). The Study also reviewed existing POTW bioassay results, which revealed that a significant number of POTWs had toxic discharges. The Study therefore concluded that the current categorical standards cannot by themselves resolve water quality concerns, and projected that other hazardous constituents may also be passing through treatment systems to create water quality problems. Besides water quality concerns, the Study found that hazardous constituents discharged to POTWs can also enter the environment through other pathways such as the disposal of sewage sludge contaminated with hazardous metals or the volatilization of organic compounds contained in industrial discharges (these pollutants may be emited both to the ambient air and to the POTW workplace).

EPA believes that these findings firmly demonstrate the importance of expanding the current exercise and the

Agency's broad authority to address hazardous wastes discharged to POTWs.

c. *Current control mechanisms.* To date, the Agency has exercised its pretreatment authority primarily through categorical standards and local limits. Although these controls address many concerns, both have limitations which prevent them from being a fully effective solution to the problems presented by discharges of hazardous constituents.

With respect to categorical standards, the Agency must collect and examine exhaustive data on the industries covered, including pollutants discharged and treatment systems used. EPA is currently evaluating many regulated and unregulated industries to determine which are appropriate candidates for new or revised categorical pretreatment standards. Developing these standards, is, however, a lengthy and expensive process, often taking many years.

The second principal means of controlling hazardous waste discharges to POTWs is the application of local limits. Local limits must be developed as needed to prevent interference with POTW operations and pass through of pollutants to receiving waters.

POTWs have generally developed adequate local limits to control interference from and pass through of pollutants that were of most concern when the pretreatment program was first developed (i.e., metals and some priority organics), but these limits have sometimes not been effective in dealing with the loadings of hazardous constituents for several reasons. First, calculating local limits for organics (such as many of the hazardous organic constituents in the Study) can be technically difficult if numeric criteria for these pollutants are not contained in POTWs' NPDES permits. Without such limits, it is impossible to establish pass through under the current definition of that term at 40 CFR 403.3(n). Second, even when pass through is demonstrated, the source of the toxicity can be difficult to locate if the pollutant concentration in a POTW's influent is highly variable and the matrix of pollutants contained in that influent is highly complex. Although EPA has issued guidance to POTWs on developing local limits, these limits may need to be supplemented under certain circumstances.

d. *Commercial hazardous waste treaters: An industry of particular concern.* The Agency's examination of the existing control mechanisms has led it to conclude that even if additional categorical standards and improved local limits were developed, there may still exist a gap in the ability of the current pretreatment program to deal comprehensively with the concerns raised by the Study. Of particular concern is the aqueous waste treatment and disposal industry. These facilities provide physical, chemical, and/or biological treatment of hazardous and nonhazardous wastewaters, including leachate from landfills and process wastewater from manufacturing operations. Aqueous treaters include both on-site generators that are not regulated by categorical standards but treat process wastewater, and commercial hazardous waste treaters (hereafter referred to as CWTs). Facilities that transport wastes to CWTs include landfills that choose not to provide treatment on-site or do not have an acceptable receiving stream or sewer line available, and manufacturers who find it more cost-effective or otherwise preferable to contract haul their wastes to a commercial facility. The Agency estimates that there are now over one hundred CWTs in the country, most of which discharge to POTWs and many of which accept categorical wastes. Flow rates at these facilities average about 45,000 gallons per day. The Study found that several incidents at POTWs have been associated with discharges from CWTs. These events include disruption of treatment processes, hazardous fumes, and contamination of sewage sludge. The incidents are of concern in light of studies by EPA and the Association of Metropolitan Sewerage Agencies (AMSA) showing that the number of waste treatment and disposal facilities are increasing substantially. The AMSA survey indicated that the number of requests for connection to POTWs by these facilities may cause increasing problems at POTWs unless they are adequately controlled.

Data collected recently by the Agency clearly indicate that the wastes accepted by these facilities contain significant amounts of hazardous constituents (particularly organics) that pass through the CWT system, receiving inadequate treatment before they are discharged to POTWs. Treatment provided at CWTs may include treatment of specific waste types (for example, cyanide destruction), physical/chemical treatment, biological treatment, and tertiary treatment. Although the physical/chemical treatment technologies at some CWTs are primarily designed to remove metals and other inorganic pollutants, the wastes accepted by these facilities contain significant amounts of organics that pass through the system, receiving limited treatment. This poor treatment received by organics is reflected in the effluent levels of biochemical oxygen demand (BOD), total organic carbon (TOC) and chemical oxygen demand (COD). Better reductions are achieved for heavy metals. Compared to physical/chemical treatment systems, the advanced treatment systems in place at some CWTs are more effective in removing organic compounds; however, high effluent concentrations or organics are common even with advanced treatment such as carbon adsorption. There are also high effluent concentrations of indicator compounds such as BOD, TOC, and COD, which demonstrates relatively poor removal of organics.

Organics found frequently and at high concentrations in the effluent from CWTs include industrial solvents such as acetone, benezene, methylene chloride, and methyl ethyl ketone. These findings show that the physical/chemical technologies, as currently operated by CWTs, are not removing organics adequately and that the more advanced technologies are not producing as much removal as would be expected, perhaps because of poor design or lack of proper operation and maintenance. The findings demonstrate the clear potential for discharge of poorly treated hazardous wastes to POTWs or surface waters. In addition, comparison of raw wastewater samples from CWTs with water quality criteria for acute and chronic toxicity, human health, and drinking water revealed numerous exceedances for several categories of pollutants. It should also be noted that the Study estimated that there is less than 50% removal of all four of the industrial solvents mentioned above at unacclimated POTWs.

CWTs are also difficult to regulate through traditional local limits. The waste discharged by many of these facilities is complex and varying in quality. Calculating local limits for CWTs can be technically difficult because of the variability of the influent to these facilities and the absence of limits for many toxic and hazardous pollutants in NPDES permits issued to POTWs.

e. *Options for addressing CWTs.* To address the concerns presented by CWTs, the Agency is considering three options for the regulation of these facilities. The first is the combined wastestream formula (by which they are currently covered), the second is categorical standards, and the third is technology-based local limits, which will be explained in more detail below.

Combined Wastestream Formula

In the absence of categorical standards specifically developed for

CWTs, these facilities are now regulated by any other applicable categorical standards as applied using the combined wastestream formula. Industry has been very vocal in criticizing the administrative difficulties of this regulatory scheme. The formula is a mathematical method used to determine effluent limits for CWTs receiving contributions from multiple wastestreams (both categorical and noncategorical). On June 12, 1986 (51 FR 21454) EPA published a notice of proposed rulemaking which explained that this formula applies to "centralized" waste treaters (many of these facilities are located off-site and thus are equivalent to CWTs). EPA also proposed to require that industrial contributors provide their centralized waste treaters with information about the nature of their process, volume of wastes, pollutant constituents, and any categorical pretreatment standards applicable to the contributors' processes. This information is necessary for the centralized waste treater (or CWT) to apply the combined wastestream formula, and thus determine its effluent limits.

The Agency solicited comments on whether other information is necessary for such an analysis and on whether the States should develop a form to standardize the information provided to these facilities. EPA also solicited comments on several alternative regulatory schemes. These included promulgating specific categorical pretreatment standards for these facilities, relying solely on local limits, and controlling each pollutant discharged by the facility by applying the most stringent numerical limit for that pollutant taken from all the categorical standards applicable to the wastes received by the facility.

EPA received many comments on this issue. Many industry commenters questioned the feasibility of applying the combined wastestream formula to their facilities. They believed that the formula was too inflexible and that variability of incoming wastestreams to CWTs would require frequent recalculation of the formula, thus rendering limits out-of-date as soon as they were calculated and leading to excessive administrative complexity. There would be little room for local discretion in controlling CWTs on a facility-specific basis. They also stated that the required information from their contributors might be difficult to obtain, update, or verify.

Because of the comments and the practical issues they raised, EPA has decided not to finalize the part of the June 12, 1986 proposal which addressed CWTs at this time. However, the options discussed in that notice are still under active consideration (in particular the combined wastestream formula). The Agency believes that some commenters have underestimated the flexibility inherent in the formula (see 40 CFR 403.6(e)). If contributions to the CWT have a record of consistency and no change is projected, a single set of limitations would be developed and implemented. However, where the wastes introduced to the CWT fluctuate, several alternative limitations could be developed corresponding to different waste configurations discharged to the CWT and would be implemented according to which configuration currently prevailed. This approach would eliminate the burden of recalculating limits to reflect changes in the CWT influent and would reduce the uncertainty about applicable limits.

The principal step in implementing these alternative limits would be to obtain historical data from the CWT on its contributions at various times over the calendar year. If the contributions remained consistent over a period of time (for example, if over a particular season the CWT received a relatively fixed percentage of wastes from mental finishers, another relatively fixed percentage from coil coaters, and another from battery manufacturers or copper formers) then limits could be calculated to take effect whenever these percentages changed. The alternative or consecutive limits could be written into the permit or other agreement between the POTW and the CWT.

EPA requests comment on the feasibility of applying the combined wastestream formula to CWTs, and on whether this approach would be more practical to implement than the other options discussed today. Comments submitted concerning the options discussed in the June 12, 1986 proposal need not be resubmitted; they will be incorporated as part of the rulemaking record.

Categorical Standards

The second principal option being considered by the Agency is the development of categorical standards specifically for CWTs. If a decision is made to develop these standards, promulgation will probably take several years. It is for this reason that the Agency is proposing a third principal option for regulating CWTs, i.e., technology-based local limits. These limits could serve as an interim measure before categorical standards are developed, or as a permanent measure if no standards are promulgated. They could also be used to reduce loadings of certain pollutants that are locally significant but not nationally regulated.

Local Limits Based on a Best Professional Judgment (BPJ) Determination of Best Available Technology Economically Achievable (BAT)

Section 307(b) directs the Administrator to establish pretreatment standards "to prevent the discharge of any pollutant through treatment works * * * which are publicly owned, which pollutant interferes with, passes through, or otherwise is incompatible with such works". The legislative history of this provision demonstrates Congress' belief that

> * * * comprehensive water pollution abatement requires that controls should * * * be extended to any industrial discharge into municipal waste treatment works in order to prevent pollutants from entering such works if they would impair the effectiveness of the waste treatment works, or if they would pass untreated or inadequately treated wastes through the treatment works into navigable waters * * * [I]t is clear that the Administrator may be unable to establish such [pretreatment] standards for all pollutants which require such control. Therefore, the provisions of this section do not relieve municipalities and States from establishing pretreatment standards to control rate, flows, and concentration of industrial discharges into waste treatment works.

(Report No. 92–414 of the Committee on Public Works of the U.S. Senate, 2 Leg. History 1415, 1973).

The legislative history also reveals that Congress intended wastes from indirect dischargers to ultimately receive the same level of treatment given to wastes from direct dischargers before these wastes enter navigable waters. In discussing the 1977 amendments to the Federal Water Pollution Control Act, it was stated that

> * * * the combination of pretreatment and treatment by the municipal treatment works shall achieve at least that treatment which would be required if the industrial user were making a direct discharge.

(Joint Explanatory Statement of the Committee of Conference, 3 Leg. History 271, 1978).

In addition, there is no specific statutory language restricting the Agency in fashioning a program to deal with the concerns that Congress was addressing. Rather, Congress provided EPA with the discretion to establish program requirements that effectuate the goals of the pretreatment program.

The Agency's current policy of basing local limits on the prevention of POTW NPDES permit violations was appropriate at the time the policy was first established. However, this policy

was not a full exercise of EPA's statutory authority. Instead, it was a prudent exercise of as much of that authority as was appropriate at the time. The following proposal is an incremental and essential change in the pretreatment program to improve its effectiveness and address problems revealed by the Study.

EPA is today proposing to amend § 403.8 to require that POTWs with approved programs receiving discharges from CWTs (as defined in proposed § 403.3(e)) develop and implement local limits based on a BPJ determination of BAT. These case-by-case technology-based limits would be very similar to the BPJ limits which have been routinely developed by NPDES permit writers during the past decade for direct dischargers not covered by national effluent limitations guidelines.

As noted above, POTWs must currently develop local limits to prevent pass through under § 403.3(n) (i.e., a discharge from an industrial user that, alone or together with other sources, causes a violation of the POTW's NPDES permit). Since many of the pollutants discharged by CWTs are usually not restricted by NPDES permits issued to POTWs, EPA is also proposing a supplementary definition of pass through for POTWs receiving discharges from CWTs. The proposed new definition would provide that pass through means the failure of the CWT and the POTW to reduce pollutant discharges from the POTW to the degree which would be required by section 301(b)(2) of the CWA if the CWT discharged directly to surface waters. To further this requirement, the Agency is also proposing to amend § 403.5(c) to provide that POTWs receiving discharges from CWTs must develop and enforce specific local limits for these facilities to prevent pass through as defined in the proposed supplementary definition. It is probable that many POTWs already have the legal authority to impose technology-based limits under local statutes or ordinances.

(Note that today's proposal also would renumber § 403.3(n), to become § 403.3(o).)

The proposed amendments require the POTW to determine whether the discharge from a CWT is receiving the level of effluent treatment which would be required if the CWT were a direct discharger, after taking into account the treatment capability of the POTW. In order to determine what would constitute best available technology for the CWT, the POTW could focus on pollutants regulated in the categorical standards for industries contributing to the CWT and any other pollutants of concern (priority or nonpriority) discharged by the CWT. The POTW should take into account all the factors enumerated in section 304(b)(2)(A) of the CWA and 40 CFR 125.3(c)(2) that are considered in developing BPJ limits for direct discharges. These include the age of facilities and equipment processes employed, the engineering aspects of various control technologies, and the costs of effluent reduction.

For examples of what would constitute best available control technologies for various pollutants, the POTW may wish to consult effluent limitations guidelines, or categorical standards for other industries (e.g., in the metal finishing category at 40 CFR Part 433, precipitation/clarification for metals, alkaline chlorination for cyanide, and hexavalent chromium reduction; in the organics, plastics, and synthetic fibers category at 40 CFR Part 414, steam stripping for organics). Alternatively, the POTW may wish to conduct its own analysis. In addition, EPA plans to develop technical information for use by POTWs in determining appropriate technology-based treatement. Based on the data available so far, the Agency has tentatively concluded that many CWTs may be able to meet BAT-based limits by better operation and maintenance, such as constructing additional storage tanks, piping and pumps for further waste segregation or collection for treatment. Such improvements may often be possible at relatively low cost (approximately fifty thousand dollars). Other CWTs may need to install more advanced treatment technology which could be more expensive (up to five hundred thousand dollars, including operation and maintenance). POTWs may wish to conduct a careful case-by-case examination of the CWT in question to determine if adequate pollutant removal can be achieved by better operation and maintenance rather than by installation of additional technology.

As mentioned above, the Agency encourages POTWs to adopt this mechanism as necessary to deal with pollutants of local concern as well as toxic and hazardous pollutants. After determining what would constitute best available technology for the various pollutants discharged by the CWT, the POTW would determine whether the actual reduction achieved by the CWT plus the reduction achieved by the POTW were equal to the hypothetical BAT limits. The most practical way to measure the POTW's removal for a specific pollutant would be to employ EPA's removal credits protocals (see 52 FR 42434 (November 5, 1987) and 46 FR 9404 (January 8, 1981)). Generally speaking, these protocals require twelve representative samples (of influent and effluent) to be taken over the course of a year, after which removal for each sample is determined by measuring the difference as a percentage of the influent concentration. The POTW would be required to develop the previously calculated technology-based local limits for the CWT if the combined removal by the CWT and the POTW for the pollutant in question turned out to be less than that which would be required to meet such hypothetical BAT limits. In order to keep the limits up to date, they should be evaluated every five years (see proposed § 122.21(j)(2)).

These technology-based local limits would be implemented and enforced in the same manner as any other local limits. § 403.8(f)(4) requires POTWs to develop local limits as required under § 403.5(c)(1) (which, as proposed to be amended today, would require the development of technology-based local limits for CWTs) or demonstrate that such local limits are not necessary. In the case of technology-based local limits, such a demonstration would normally include a showing that the pollutants in the discharge from the CWT are reduced (after treatment by the CWT and the POTW) to the degree which would be required if the CWT were a direct discharger. Requirements to develop and update such local limits as are necessary will be reflected in the POTW's approved pretreatment program and incorporated into the POTW's permit upon modification or reissuance (see proposed § 403.8(f)(1)(iii) and existing § 403.8(c). Like all other applicable pretreatment requirements, the failure to develop necessary local limits will continue to be subject to enforcement, either by EPA or an approved NPDES State, as a violation of the POTW's NPDES permit. However, the Agency notes that under most circumstances pass through as defined in proposed § 403.3(o)(2) would not be enforced in the absence of local limits specifically developed to prevent such pass through.

f. *Other Industries.* POTWs may also need to use their authority to develop technology-based local limits for other industries. To this end, the Agency is considering requiring POTWs to develop such limits for pesticide and pharmaceutical manufacturers. The pharmaceutical industry ranks high in total hazardous constituent loadings for priority pollutants after the implementation of categorical pretreatment standards, and the

pesticide industry has been among the nation's top ten dischargers of hazardous constituents. The Agency is currently reviewing pharmaceutical manufacturing to determine whether to propose new categorical pretreatment standards for this industry, and it has already initiated rulemaking procedures which will lead to the eventual promulgation of standards for the pesticides industry. However, the Agency nevertheless believes that alternate controls may be necessary.

g. *Solicitation of Comments.* EPA invites comment on which of the approaches discussed today is the most practical and effective way to further the recommendations of the Study by improving local limits. Specifically, EPA solicits comments on all aspects of the proposed requirement that POTWs develop local limits based on a BPJ determination of BAT, especially the merits of this approach compared to the combined wastestream formula. The approach might prove to be effective alternative to the formula and would address some of the concerns expressed by commenters responding to the June 12, 1986 notice. In particular, POTWs would be able to address CWTs on a case-by-case basis and develop limits that were tailored to the particular facility. The Agency requests comment on whether POTWs should also be allowed to use the combined wastestream formula to develop local limits for those CWTs for which the formula might be more appropriate, i.e., those with a relatively invariable or predictable influent.

The Agency also solicits comments on whether to require technology-based local limits for pharmaceutical and pesticide manufacturers. In addition, EPA wishes to receive comments on the practical implementation aspects of technology-based local limits for POTWs, whether for CWTs or industrial users in general. The Agency plans to make technical information available for use in developing such limits, but welcomes comment on this issue and on whether any additional reporting or compliance requirements are necessary for these limits.

EPA also solicits comments on whether to specify in the definition of pass through under § 403.3(o)(2) that such pass through is for purposes of local limits development only and is not subject to the general prohibition of pass through in 40 CFR 403.5(a)(1) in the absence of local limits specifically developed to prevent such pass through. The Agency requests comment on whether such language is necessary or would be redundant in light of 40 CFR 403.5(a)(2), which provides an affirmative defense for an industrial user who demonstrates that it did not know or have reason to know that its discharge caused pass through or interference.

5. Other Problems at POTWs

It should be noted that § 403.3 defines interference as a discharge, which, alone or in conjunction with other sources, prevents the use or disposal of sewage sludge in accordance with (among other authorities) the Clean Air Act (CAA). POTW sewage sludge incinerators are currently regulated under section 112 of the CAA (National Emissions Standards for Hazardous Air Pollutants, or NESHAPS). EPA has promulgated emission rates for mercury and beryllium based on acceptable ambient concentrations, and the Agency is considering other pollutants, including organics, for regulation. As further NESHAPS are promulgated, POTWs will be required to develop local limits as necessary to ensure that their sludge incineration facilities meet the emissions limits.

With respect to air emissions from chemicals discharged to POTWs, EPA is currently studying the emission of volatile compounds and other toxic air pollutants from wastewater treatment plants (both direct and indirect dischargers). The emphasis is on emissions from the organic chemicals, plastic, and synthetic fibers industrial category and the pharmaceutical and pesticide manufacturing categories. EPA is also developing test methods to identify other process wastestreams rich in volatile organic compounds. EPA is using data from this study to evaluate air emissions caused by volatilization formed from the treatment of wastewaters (by such means as air stripping) and is also considering possible regulation of such emissions under the Clean Air Act, which eventually reduce the amount of volatile compounds entering wastewater treatment plants.

EPA is also conducting a study to evaluate the extent of groundwater contamination caused by leaking sewers (see 52 FR 23485, June 22, 1987). If this study indicates that such contamination is widespread, EPA will evaluate the possibility of requiring POTWs to develop any local limits needed to prevent violation of any groundwater protection standards to which the POTW may be subject.

G. Enforcement of Categorical Standards

The Study recommended that EPA pursue more stringent enforcement of categorical pretreatment standards. More rigorous enforcement could lead to a significant reduction of pollutant loadings to POTWs, particularly of heavy metals. More stringent enforcement of the standards was also recommended by the Pretreatment Implementation Review Task Force (PIRT) which in 1985 gave the Agency recommendations for improving the national pretreatment program. The ANPR discussed several of EPA's initiatives to improve local enforcement, including guidance, audits and inspections of approved pretreatment programs, expanded self-monitoring requirements, and enforcement actions against POTWs with unimplemented programs.

The commenters on the ANPR generally supported these means of improving the enforcement of categorical pretreatment standards. In response to these comments, EPA will continue to emphasize all activities designed to better POTWs' ability to enforce compliance with these standards.

EPA is today proposing certain other changes to the general pretreatment regulations which it believes will help POTWs enforce their local pretreatment programs and improve control of toxic and hazardous wastes discharged to POTWs. These proposed changes are discussed below.

1. Revisions to Local Limits

On October 17, 1988 (53 FR 40562) EPA revised 40 CFR 403.8(f) by clarifying that the development of local limits (or a demonstration that they are not necessary) is a prerequisite to approval of a POTW pretreatment program and the continuing legal acceptability of an approved program. Although the regulatory language of that rule does not explicitly require POTWs to update local limits, the preamble of the June 12, 1986 proposal to that rule stated that "local limits * * * must be updated as necessary to reflect changing conditions at the POTW" (51 FR 21459) and that "failure to * * * update, as needed, necessary local limits, will, of course, continue to be subject to enforcement, * * * as a violation of the POTW's permit" (51 FR 21460).

In order to completely clarify this requirement, and because of the importance of up-to-date local limits in controlling the discharges of toxic and hazardous pollutants, EPA is today proposing to add 40 CFR 122.21(j)(2) to provide that POTW's must evaluate in writing the need to update their local limits as part of their NPDES permit applications (i.e., once every five years.

at a minimum). If the Director determines that a particular POTW should evaluate the need for revision more often, it may so specify in the POTWs permit or approved pretreatment program (as incorporated by reference in the permit).

Today's proposal would not require POTWs to update their local limits when such revision is not needed. Instead, EPA is proposing to establish a minimum frequency for formal evaluation of the need for revised limits. Examples of events that might indicate the need for such a revision include changes in the POTW's NPDES permit, changes in sludge disposal standards or POTW sludge disposal methods, modifications to the treatment plant, addition or deletion of significant industrial users, and changes in industrial users' processes or pretreatment operations. These events could all affect the likelihood of interference with POTW operations or possible lack of compliance with the POTW's NPDES permit. The proposed minimum frequency should give POTWs more precise notice of their legal responsibilities and should help EPA enforce pretreatment implementation. The proposed frequency should also help POTWs be more effective in preventing pass through and interference caused by the discharge of toxic and hazardous wastes.

EPA solicits comment on whether POTWs should be required to conduct this evaluation more frequently. For example, POTWs might be required to conduct the evaluation whenever multiple instances of pass through or interference had occurred (such as two or more violations in a quarter), in order to determine whether existing local limits were adequate to prevent these occurrences or whether local enforcement efforts were adequate. POTWs might also be required to submit such evaluations once a year as part of the annual reports to the Approval Authority required under 40 CFR 403.8(i). The Agency welcomes comment on how frequently local limits should be examined to ascertain whether they need to be revised.

2. Inspections and Samplings of Significant Industrial Users by POTWs

The existing regulations (40 CFR 403.8(f)(2)(v)) require that a POTW must be able to randomly sample and analyze the effluent from industrial users and conduct surveillance and inspections to identify noncompliance with pretreatment standards. However, these regulations do no specifiy how often POTWs must perform the sampling, analysis and surveillance.

In the 1986 *Pretreatment Compliance Monitoring and Enforcement Guidance* (hereinafter "1986 Guidance"), the Agency recommended that POTWs conduct at least one inspection and/or sampling visit annually to all "significant industrial users." According to the Guidance, the term "significant industrial user" includes all categorical users and any noncategorical industrial user that discharges 25,000 gallons per day or more of process wastewater, contributes a process wastestream which make up 5 percent or more of the average dry weather capacity of the treatment plant, or has a reasonable potential, in the opinion of the Control Authority, to adversely affect the POTW's operation. The Control Authority, with the consent of the Approval Authority, may remove any noncategorical industrial user from the list of significant industrial users if the industrial user has no reasonable potential to adversely affect the POTW or to violate any pretreatment standards or requirements. EPA is today proposing that the consent of the Approval Authority is not required when the industrial user would have been designated as significant only because of an average process wastewater flow of 25,000 gallons per day or more. Noncategorical industrial users may also petition to be removed from the significant industrial user list. For example, if the significant noncategorical industrial user has an exemplary compliance record, is not likely to contribute to instances of interference, and has little potential to contribute to any water quality problems, the POTW may wish to delete that user from the list. Alternatively, EPA emphasized in the Guidance that more frequent monitoring should probably be conducted in certain cases: e.g., if an industrial user has not been able to comply with pretreatment standards. POTWs may of course add an industrial user to the list even if that user was previously deleted, if compliance problems of any other circumstances arise which make such an addition appropriate.

In order to specify a standard for how often POTWs must inspect and sample the effluent of their significant industrial users, EPA is today proposing to modify 40 CFR 403.8(f)(2)(v) to require POTWs to inspect and sample all "significant industrial users" at least once every two years. EPA believes that inspection and sampling of these users at least this often should help POTWs avert pass through and interference by keeping better track of the larger industrial discharges into their treatment and collection systems (especially discharges of toxic and hazardous pollutants). The proposed amendments should also provide a uniform program requirement that EPA can readily enforce if necessary.

As discussed in Part II–B above, the Agency is also proposing to amend § 403.8(f)(2)(v) to require POTWs to evaluate at the time of inspection whether the significant industrial user in question should have a slug control plan for the prevention and control of spills or batch discharges that could cause interference at the POTW.

To ensure that POTW s update their lists of significant industrial users, the Agency is also proposing to amend 40 CFR 403.12(i)(1) to require POTWs to identify such users in the updated list of all industrial lusers required to be submitted to the Approval Authority under 40 CFR 403.12(i). In addition, EPA is proposing to amend 40 CFR 403.8(f)(2)(iii) to require that, within 30 days after a POTW's establishment or revision of its list of significant industrial users, the POTW must inform all such newly designated users of their status and the applicable requirements of this status.

Because several of the proposals today affect requirements applicable to significant industrial users, EPA believes that it would be appropriate to propose a regulatory definition of this term for the sake of national consistency and program enforceability. For this reason, EPA is proposing to amend 40 CFR 403.3 to add a new definition of "significant industrial user" which is similar to the definition in the 1986 Guidance, since that definition has so far proved to be a useful tool in distinguishing the more important indirect dischargers.

EPA solicits comment on all of the rule changes proposed above. Specifically, the Agency requests comment on whether to require that pretreatment POTWs sample and inspect all significant industrial users at least once a year, or whether the currently proposed frequency of at least once every two years will better enable the POTW to plan for inspections while still collecting useful and current discharge information. Alternatively, EPA solicits comment on whether today's proposed requirement of a minimum sampling and inspection frequency is redundant in light of other existing or proposed requirements for self-monitoring and reporting by indirect dischargers, such as twice-yearly sampling and reporting by all categorical and significant non-categorical industrial users,

requirements to report a substantial change in the volume or character of pollutants discharged, and requirements to notify the POTWs of any discharge of hazardous wastes. The Agency also requests comment on whether to require that POTWs target certain compounds or classes of compounds in their sampling, such as the RCRA Appendix IX hazardous constituents. The Agency also solicits comment on the appropriateness of the proposed definition of significant industrial user, and on whether to allow POTWs to delete categorical users from the list of significant industrial users. It has been suggested that some categorical users do not present any potential for pass through or interference and that POTWs should therefore be free to delete them from the list of significant industrial users. Similarly, EPA requests comment on whether the flow criterion of 25,000 gallons per day for non-categorical significant industrial users is appropriate. The Agency has traditionally used the 25,000 gallons per day criterion in guidance documents. That number represents 5 percent of the hydraulic capacity of the smallest POTWs which EPA may require to have an approved pretreatment program (i.e., those POTWs with half a million gallons per day of design flow capacity). However, EPA solicits comment on whether a larger flow criterion (such as 50,000 gallons per day) would be more useful as a guideline for identifying those industrial users with the capacity for adversely affecting most POTWs.

In addition, EPA wishes to receive comment on the role of the Approval Authority in designating significant industrial users. Specifically, the Agency requests comment on whether the Control Authority should be required to obtain the agreement of the Approval Authority before choosing not to designate (or removing from the list) an industrial user who would otherwise be included because of the proposed criteria.

The Agency also solicits comment on expanding the definition of significant industrial user to include notifiers of hazardous waste discharges under proposed § 403.12(p). Since inclusion in the definition may carry certain administrative consequences for those notifiers in approved pretreatment programs (self-monitoring, inspections, individual control mechanisms, and slug control plans), the Agency welcomes comment on whether any or all of these requirements would be appropriate for some or all dischargers of hazardous wastes.

In addition, the Agency solicits comment on the usefulness of requiring POTWs to estimate, in the annual reports submitted to the Approval Authority under § 403.8(i), whether the amount of hazardous wastes received during the last calendar year has changed significantly and whether any change has affected operations at the POTW.

3. Enforcement Response Plans for POTWs

The existing general pretreatment regulations do not clearly specify the enforcement requirements applicable to POTWs with approved pretreatment programs. The only specific enforcement sanction identified is the requirement that POTWs publish the names of significant noncompliers in the largest local daily newspaper. The regulations require POTW program submissions to identify how the POTW intends to ensure compliance; they also require POTWs to enforce all pretreatment standards and requirements against industrial users and obtain remedies for noncompliance (40 CFR 403.8(f)(1)). However, POTWs are not informed specifically what their legal responsibilities are in carrying out enforcement actions. This also complicates EPA's task in enforcing this part of approved pretreatment programs, since evaluation of POTW enforcement is difficult when the procedures contained in the approved program are not sufficiently specific.

EPA Regions and NPDES States have Enforcement Management Systems in operation for direct dischargers. In the 1986 Guidance, the Agency encouraged each POTW to develop an Enforcement Response Guide, which is a set of procedures describing how the POTW will investigate industrial user violations and which corrective or enforcement actions the POTW will take to respond to such violations (the Guidance suggested certain procedures). To ensure that POTWs develop and implement specific enforcement procedures, EPA is proposing today to amend 40 CFR 403.8(f) to require all POTWs with pretreatment programs to develop and implement an enforcement response plan describing how the POTW will investigate and respond to instances of industrial user noncompliance, including time frames within which the responses will take place.

The Agency believes that the process of developing these plans will be very valuable in helping POTWs decide what resources are needed to enforce their pretreatment standards and how they will actually deal with industrial user violations. Such plans will also make it much easier for EPA to determine whether a POTW is complying with its pretreatment implementation requirements for enforcement. The proposed rule will not interfere with the ability of POTWs to carry out their programs in a manner suited to their needs, nor should such a plan be difficult to develop. The 1986 Guidance included detailed suggestions on various appropriate responses to many different kinds of noncompliance. The POTW should use both the Guidance and its own expertise to develop a reasonable plan to address and remedy noncompliance.

EPA solicits comments on this proposal. Specifically, the Agency requests comments on whether to include more specific elements in the enforcement response plan. Although the Agency believes that the maximum degree of flexibility is needed for POTWs to address their particular problems, it is possible that certain elements of such plans might be suitable for uniform application. EPA welcomes comment on this issue.

4. Definition of Significant Violation

The existing regulations (40 CFR 403.8(f)(2)(vii)) require Control Authorities to publish, in the daily newspaper with the largest circulation in the service community, a list of industrial users which had significant violations of applicable pretreatment standards and requirements during the previous twelve months. The list must be published at least once a year. "Significant violation" is defined as a violation which remains uncorrected 45 days after notification of noncompliance; which is part of a pattern of noncompliance over a twelve-month period; which involves a failure to accurately report noncompliance; or which resulted in the POTW exercising its emergency authority under 40 CFR 403.8(f)(1)(vi)(B).

This definition paralleled the criteria for submitting Quarterly Noncompliance Reports (QNCRs) on direct dischargers. QNCRs are submitted by States with approved NPDES programs or by EPA Regions for States without such programs. The Agency uses QNCRs to track the progress and measure the effectiveness of NPDES compliance and enforcement against direct dischargers. However, in 1985 EPA revised the criteria for the types of violations required to be reported in QNCRs. The revisions, besides containing more precise language, established technical review criteria (TRC) to be used for reporting certain effluent violations. The

TRCs were based on the magnitude and/or duration of the violations.

The 1986 Guidance included a detailed description of significant violations by industrial users which substantially mirrored these new criteria for the violations required to be reported in QNCRs. In the Guidance, EPA recommended the national use of this definition to identify the most serious violations by industrial users and to set priorities for enforcement actions.

Experience with the current definition of significant violation has shown that POTWs vary considerably in their definition and application of this interpretation when selecting which violations to publish in local newspapers. This is particularly true of deciding what constitutes a "pattern of noncompliance" under 40 CFR 403.8(f)(2)(vii). To eliminate these inconsistencies and to establish more parity between the treatment of violations committed by direct and indirect dischargers, the Agency is proposing today to amend §403.8(f)(2)(vii) to replace the definition of significant violation with a new definition which is substantially the same as the criteria for reporting direct discharger violations in QNCRs.

Under the definition proposed today, a POTW must publish in the largest daily newspaper a list of industrial users who were in significant violation in the previous twelve months. A violation would be significant if it met one or more of the following criteria:

(1) Chronic violations of wastewater discharge limits, i.e., those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(2) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all the measurements taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Control Authority believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

(4) Any discharge of a pollutant that has caused imminent danger to human health, welfare, or to the environment and has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(iv)(B) to halt or prevent such a discharge,

(5) Violation, by ninety days or more after the schedule date, of a compliance schedule milestone, contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within thirty days of the due date;

(7) Failure to accurately report noncompliance, or

(8) Any other violation or group of violations which the Control Authority considers to be significant.

The Agency believes that this proposed amendment gives POTWs more precise notice of their obligation to establish which industrial user violations must be published. EPA solicits comments on the appropriateness of the above criteria. The Agency emphasizes that industrial users would continue to be liable for any violation of applicable pretreatment requirements. Whether an industrial user is identified as being a significant violator does not determine the type of enforcement action that should be taken, including enforcement actions for lesser violations.

5. Reporting Requirements for Significant Industrial Users

40 CFR 403.12 describes the reports that industrial users who are subject to categorical pretreatment standards must submit to their control authorities. The existing regulations do not specifically require non-categorical industrial users to submit reports to the control authority regarding their compliance with applicable pretreatment requirements. On October 17, 1988, (53 FR 40562) EPA amended 40 CFR 403.12 to clarify that Control Authorities must require appropriate reporting from those industrial users with discharges not subject to categorical standards.

In order to ensure that this reporting is carried out regularly, the Agency is today proposing to amend 40 CFR 403.12(h) to require that all significant industrial users (as defined under proposed 40 CFR 403.3(u), including noncategorical significant users) must submit to their POTWs at least twice a year a description of the nature, concentration, and flow of pollutants selected for such reporting by the POTW. In addition, EPA is proposing to require all significant industrial users to base their reports on data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. Control Authorities or Approval Authorities may require more frequent monitoring or more detailed information in the report as appropriate. As mentioned above, the Agency is also proposing to amend 40 CFR 403.8 to require POTWs to inform significant industrial users of their status and the applicable requirements of this status.

EPA believes that these proposed requirements will give POTWs much more accurate knowledge of non-categorical wastes entering their treatment and collection systems. This knowledge is particularly important because many toxic and hazardous pollutants are not covered by categorical standards. EAP also believes that establishing minimum monitoring frequencies is the only way to ensure that the samples submitted to the POTW are representative and up to date.

The Agency solicits comment on this proposed change to the general pretreatment regulations. Specifically, EAP requests comment on the twice-yearly reporting frequency and on limiting the reporting requirements to significant industrial users as defined in proposed 40 CFR 403.3(u). EPA selected the twice-yearly frequency to be consistent with similar requirements for categorical industrial users, and has proposed to limit the requirements to significant noncategorical industrial users because these users seem likely to discharge the largest amounts of toxic and hazardous pollutants. In addition, the proposed definition of significant industrial users gives POTWs flexibility to add or delete industrial users as appropriate. The Agency also requests comment on whether to require significant industrial users to sample for certain compounds or classes of compounds, such as the RCRA Appendix IX hazardous constituents. EPA welcomes comment on these and other aspects of this proposed requirement.

H. Miscellaneous Amendments

In addition to the substantive regulatory changes proposed today, the Agency is also proposing to amend some possibly confusing language in the general pretreatment regulations to clarify current requirements and avoid misunderstandings. These proposed clarifications are discussed below.

1. Local Limits Development and Enforcement

40 CFR 403.5(c) provides that POTWs "developing" pretreatment programs must develop and enforce specific limits to implement the general and specific discharge prohibitions. In order to clarify that POTWs with already approved pretreatment programs must also develop and enforce local limits, EPA is today proposing to amend § 403.5(c) to provide that POTWs shall continue to develop and enforce appropriate local limits after developing an approved pretreatment program.

2. EPA and State Enforcement Action

40 CFR 403.5(e) summarizes the statutory procedures that EPA and NPDES States must follow under section 309(f) of the Clean Water Act to bring an enforcement action against an industrial user that has caused interference or pass through at a POTW, i.e., give the POTW 30 days notice to initiate its own enforcement action. However, § 403.5(e) may be misleading in not stating that this notice requirement only applies to federal enforcement under section 309(f) of the Act and not to other enforcement actions. In order to avoid misunderstanding, the Agency is today proposing to amend the title of § 403.5(e) to indicate that these notice procedures only apply to actions brought under section 309(f) of the Act.

3. National Pretreatment Standards: Categorical Standards

40 CFR 403.6 provides that categorical pretreatment standards, unless specifically noted otherwise, shall be in addition to the general prohibitions established in § 403.5. There appears to have been an omission from this provision of the specific discharge prohibitions. In order to rectify this omission, the Agency is proposing to amend § 403.6 to add that national pretreatment standards, unless specifically noted otherwise, shall be in addition to all prohibitions and limits established under § 403.5(c).

4. POTW Pretreatment Program Requirements: Implementation

40 CFR 403.8(f) establishes the requirements that a POTW pretreatment program must satisfy. Although these requirements must be met in order for a POTW's pretreatment program to be approved, the proposed regulatory language clarifies the implementation obligations for a POTW. The language of § 408.8(f)(1) now provides that a POTW must have the legal authority which enables it to deny, condition, and control pollutant contributions, require compliance by industrial users, conduct inspections of industrial users, and perform other essential attributes of a pretreatment program. This language does not specifically state that POTWs must implement these procedures. In order to clarify this language, the Agency is today proposing to amend the introductory sentence of § 403.8(f) to state that "a POTW Pretreatment Program shall be developed *and implemented* to meet the following requirements". EPA is also proposing to amend the title of § 403.8 to read "POTW Pretreatment Programs: Development *and Implementation* by POTW" [emphasis added].

5. Development and Submission of NPDES State Pretreatment Programs

40 CRFR 403.10(c) states that "the EPA shall * * * apply and enforce Pretreatment Standards and Requirements until the necessary implementing action is taken by the State". This sentence might give the wrong impression that the Agency will cease to enforce pretreatment requirements when a State has received program approval. Since this is not the case, EPA is today proposing to delete this sentence from § 403.10.

6. Admistrative Penalties Against Industrial Users

The second to last sentence in 40 CFR § 403.8(f)(1)(vii)(B) states that "the Approval Authority shall have authority to seek *judicial* relief for noncompliance by Industrial Users when the POTW has acted to seek such relief but has sought a penalty which the Approval Authority finds to be insufficient [emphasis added]". Given EPA's new authority under the 1987 amendments to the Clean Water Act to assess administrative penalties, this provision is misleading because it could arguably be read to preclude the Agency from seeking such penalties from an industrial user that has already been subject to an action by the POTW. In order to correct this omission, the Agency is today proposing to amend § 403.8(f)(1)(vii)(B) to provide that the Approval Authority shall have the authority to seek judicial relief and also may have administrative authority when the POTW has acted to seek such relief but has sought a monetary penalty which the Approval Authority finds to be insufficient.

7. Provisions Governing Fraud and False Statements

40 CFR 403.12(n) regarding fraud and false statements incorrectly states that certain reporting requirements shall be subject to the provisions of section 309(c)(2) of the Clean Water Act. The reference should be to sections 309(c)(4) and (6) of the Act, as amended. EPA is today amending § 403.12(n) accordingly.

III. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirement of a Regulatory Impact Analysis. Major rules are those which impose a cost on the economy of $100 million or more annually or have certain other economic impacts. The Agency has determined that this proposed rule does not meet the criteria of a major rule as set forth in section 1(b) of the Executive Order. The Agency has completed a general estimate of the annual cost to industrial users and POTWs of the amendments proposed today, which is included in the administrative record for this rulemaking. This rule has been submitted to the Office of Management and Budget (OMB) for review.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires EPA and other agencies to prepare an initial regulatory flexibility analysis for all proposed regulations that have a significant impact on a substantial number of small entities. No regulatory flexibility analysis is required, however, where the head of the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Most of the amendments proposed today, if promulgated, will affect larger POTWs (those with approved pretreatment programs) and significant industrial users. I hereby certify, pursuant to 5 U.S.C. 605(b), that this regulation will not have a significant impact on a substantial number of small entities.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA must submit any rule that contains information collection requirements to the Director of OMB for review and approval. The information collection requirements in this proposed rule have been submitted to OMB for review.

List of Subjects

40 CFR Part 122

Administrative practice and procedure, Reporting and recordkeeping requirements, Water pollution control, Confidential business information.

40 CFR Part 403

Confidential business information, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control.

Date: November 14, 1988.

Lee M. Thomas,

Administrator.

For the reasons explained in the preamble, Part, 122 and 403 of Chapter I of Title 40 of the Code of Federal Regulations are proposed to be amended as follows:

PART 122—NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

40 CFR Part 122 is amended as follows:

1. The authority citation for Part 122 continues to read as follows:

Authority: Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 122.21 is proposed to be amended by adding paragraphs (j) (1) and (2) to read as follows:

§ 122.21 Application for a permit.

* * * * *

(j) * * *

(1) All existing POTWs shall provide the following information to the Director:

(i) Results of whole effluent biological toxicity screening, conducted as follows:

(A) For POTWs with a dilution ratio between the receiving stream low flow rate and the effluent design flow rate of less than 10,000 to 1 but greater than 1,000 to 1, or with a poorly mixed effluent plume in a receiving water of concern:

Collect six effluent samples in one day (grab or short-term composite) each quarter over a one-year period. Conduct twenty-four hour screening tests for acute toxicity in 100% final effluent, using an invertebrate species and a fish species in each sample, and following the protocols specified in *Methods for Measuring the Acute Toxicity of Effluents to Aquatic Organisms,* Peltier, W. and C.I. Weber, 3rd edition, 1985, EPA 600/4–85–013. The Director may require alternative test procedures and may require the submission of definitive testing data, generated according to procedures specified by the Director, to replace or supplement the screening test data specified above.

(B) For POTWs with a dilution ratio between the receiving stream low flow rate and the effluent design flow rate of less than 1,000 to 1 but greater than 100 to 1: Collect six effluent samples (24-hour composite) on six successive days each quarter over a one-year period. Conduct seven-day static screening test for chronic toxicity in 100% final effluent, using an invertebrate species and a fish species in each sample, daily composite samples to renew test solutions, and following protocols specified by the Director. The Director may require alternative test procedure and may require the submission of definitive testing data, generated according to procedures specified by the Director, to replace or supplement the screening test data specified above.

(c) For POTWs with a dilution ratio between the receiving stream low flow rate and the effluent design flow rate of less than 100 to 1, results of definitive toxicity data generation according to procedures required by the Director.

(ii) [Reserved]

(2) All POTWs with approved pretreatment programs shall provide the following information to the Director: A formal evaluation of the need to revise local limits under 40 CFR 403.5(c)(1).

PART 403—GENERAL PRETREATMENT REGULATIONS FOR EXISTING AND NEW SOURCES

1. The authority citation for Part 403 continues to read as follows:

Authority: Sec. 54(c)(2) of the Clean Water Act of 1977 (Pub. L. 95–217), secs. 204(b)(1)(C), 208(b)(2)(C)(iii), 301(b)(1)(A)(ii), 301(b)(2)(A)(ii), 301(b)(2)(C), 301(h)(5), 301(i)(2), 304 (e) and (g), 307, 308, 309, 402(b), 405 and 501(a) of the Federal Water Pollution Control Act (Pub. L. 92–500), as amended by the Clean Water Act of 1977 and the Water Quality Act of 1987.

2. Section 403.3 is proposed to be amended by redesignating existing paragraphs (e) through (s) and (t) as paragraphs (f) through (t) and (v), designating new paragraph (o) as paragraph (o)(1), and adding new paragraphs (e), (o)(2) and (u) as follows:

§ 403.3 Definitions.

* * * * *

(e) The term "CWT" means a commercial centralized waste treatment facility (other than a landfill or an incinerator) which treats or stores aqueous wastes generated by facilities not located on the site of the CWT and which disposes of these wastes by introducing them to a POTW.

* * * * *

(o)(2) In the case of POTWs receiving discharges from CWTs as defined in § 403.3(e), pass through also means the failure of the CWT and the POTW to reduce pollutant discharges from the POTW to the degree which would be required under section 301(b)(2) of the CWA if the CWT discharged directly to surface waters.

* * * * *

(u) the term "Significant Industrial User" means:

(1) All dischargers subject to Categorical Pretreatment standards under § 403.6 and 40 CFR Chapter I, Subchapter N; and

(2) All noncategorical dischargers that, in the opinion of the Control Authority, have a reasonable potential to adversely affect the POTW's operation, or that contribute a process wastestream which makes up 5 percent or more of the average dry weather capacity of the POTW treatement plant, or that discharge an average of 25,000 gallons per day or more of process wastewater to the POTW. However, the Control Authority need not designate as Significant any noncategorical Industrial User that, in the opinion of the Control Authority and with the agreement of the Approval Authority, has no potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement. The agreement of the Approval Authority is not necessary in cases where the noncategorical discharger would have been designated as significant only because of an average discharge of 25,000 gallons per day or more of process wastewater. However,

(3) Any noncategorical Industrial Use designated as Significant may petition the Control Authority to be deleted from the list of Significant Industrial Users on the grounds that it has no potential for adversely affecting the POTW's operation or violating any pretreatment standard or requirement.

3. Section 403.5 is proposed to be amended by revising paragraphs (b)(1), adding text to the end of (c)(1), revising the title of paragraph (e), and adding new paragraphs (b)(6) and (b)(7) to read as follows:

§ 403.5 National pretreatment standards: prohibited discharges.

* * * * *

(b) * * *

(1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, pollutants with a closed cup flashpoint of less than 140 degrees Farenheit (sixty degrees Centigrade), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ATSM standard D–93–79 or D–93–80k (incorporated by reference, see § 260.11) or a Setaflash Closed Cup Tester, using the test method specified in ATSM Standard D–3278–78 (incorporated by reference, see § 260.11) and pollutants which cause an exceedance of 10% of the lower

explosive limit (LEL) at any point within the POTW.

* * * * *

(6) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute workers health and safety problems.

(7) Any trucked or hauled pollutants, except at discharge points designated by the POTW.

(c) * * *

(1) * * * Each POTW with an approved Pretreatment Program shall continue to develop these limits as necessary and effectively enforce such limits. Such POTWs shall implement the prohibition in paragraph (b)(6) of this section by establishing numerical discharge limits or other controls where necessary based on existing human toxicity criteria or other information. Such POTWs receiving discharges from CWTs as defined in § 403.3(e) shall develop and enforce specific limits for those facilities to prevent pass through as defined in § 403.3(o)(2).

* * * * *

(e) *EPA and Stated enforcement actions under section 309(f) of the CWA.* * * *

4. § 403.6 is proposed to be amended by revising the introductory text to read as follows:

§ 403.6 National Pretreatment Standards: Categorical Standards.

National Pretreatment Standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by existing or new Industrial Users in specific industrial subcategories will be established as separate regulations under the appropriate subpart of 40 CFR Chapter I, Subchapter N. These standards, unless specifically noted otherwise, shall be in addition to all prohibitions and limits established under §403.5(c).

* * * * *

5. § 403.8 is proposed to be amended by revising the Section heading, the introductory text paragraph (f), redesignating paragraphs (f)(1)(iii) through (f)(1)(vii) as (f)(1)(iv) through (f)(1) (viii), revising paragraphs (f)(1)(vii)(B), (f)(2)(v), and (f)(2)(vii), adding text to the end of (f)(1)(iv), and (f)(2)(iii), and adding new paragraphs (f)(1)(iii) and (f)(5) to read as follows:

§ 403.8 Pretreatment Program Requirements: Development and Implementation by POTW.

* * * * *

(f) *POTW pretreatment requirements.* A POTW Pretreatment Program shall be developed and implemented to meet the following requirements:

(1) * * *

(iii) Develop local limits for commercial aqueous off-site waste treaters (CWTs, as defined in § 403.3(e)) based upon a best professional judgment (BPJ) determination of the best available technology economically achievable (BAT).

(iv) * * * In the case of Industrial Users identified as significant under § 403.3(u), this control shall be achieved through discharge permits or equivalent individual control mechanisms issued to each such user. Such permits or other control mechanisms must contain, at a minimum, the following conditions:

(A) Statement of duration (in no case more than five years);

(B) Statement of non-transferability of the permit without prior POTW approval;

(C) Applicable effluent limits based on categorical pretreatment standards and local limits;

(D) Applicable monitoring, sampling, and reporting requirements;

(E) Notification requirements for slug discharges as defined in § 403.5(b); and

(F) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements.

* * * * *

(vii) * * *

(B) Pretreatment Requirements which will be enforced through the remedies set forth in paragraph (f)(1)(vii)(A) of this section, will include but not be limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW; or any reporting requirements imposed by the POTW or these regulations. The POTW shall have authority and procedures (after informal notice to the discharger) immediately and effectively to halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall also have authority and procedures (which shall include notice to the affected Industrial Users and an opportunity to respond) to halt or prevent any Discharge to the POTW which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the POTW. The Approval Authority shall have authority to seek judicial relief and may also seek administrative relief when the POTW has sought to seek such relief but has sought a monetary penalty which the Approval Authority believes to be insufficient.

* * * * *

(2) * * *

(iii) * * * Notify each newly designated Significant Industrial User of its status and of all requirments applicable to such users within 30 days after designation as such.

* * * * *

(v) Randomly sample and analyze the effluent from Industrial Users and conduct surveillance and inspection activities in order to identify, independent of information supplied by Industrial Users, occasional and continuing noncompliance with Pretreatment Standards. Inspect and sample the effluent from each Significant Industrial User that discharges into the POTW at least every two years, and evaluate, at the time of such sampling or inpsection, whether each such significant industrial user needs a plan to prevent and control slug discharges as defined under § 403.5(b). The results of such activities shall be made available to the Approval Authority upon request. If the POTW decides that such a plan is needed, each plan shall contain, at a minimum, the following elements:

(A) Description of discharge practices, including non-routine batch discharges;

(B) Description of stored chemicals;

(C) Procedures for promptly notifying the POTW of slug discharges as defined under § 403.5(b), with procedures for follow-up written notification within five days;

(D) Any necessary procedures to prevent accidental spills, including maintenance of storage areas, handling and transfer of materials, loading and unloading operations, and control of plant site run-off;

(E) Any necessary measures for building containment structures or equipment;

(F) Any necessary measures for controlling toxic organic pollutants (including solvents);

(G) Any necessary procedures and equipment for emergency response;

(H) Any necessary follow-up practices to limit the damage suffered by the treatment plant of the environment.

* * * * *

(vii) Comply with the public participation requirements of 40 CFR Part 25 in the enforcement of National Pretreatment Standards. These procedures shall include provision for at least annual public notification, in the largest daily newspaper published in the municipality in which the POTW is located, of Industrial Users which, at

any time during the previous twelve months, were in significant violation of applicable Pretreatment Standards or Pretreatment Requirements. For the purposes of this provision, an Industrial User is in significant violation if its violations meet one or more of the following criteria:

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(B) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit times the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH);

(C) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Control Authority believes has caused, alone or in combination with other discharges, intereference or pass through (including endangering the health of POTW personnel or the general public);

(D) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment and has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vii)(B) of this section to halt or prevent such a discharge;

(E) Violation, by ninety days or more after the schedule date, of a compliance schedule milestone contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance;

(F) Failure to provide required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within thirty days of the due date;

(G) Failure to accurately report noncompliance; or

(H) Any other violation or group of violations which the Control Authority considers to be significant.

* * * * *

(5) The POTW shall develop and implement an Enforcement Response Plan. This Plan shall contain detailed procedures indicating how a POTW will investigate and respond to instances of Industrial User noncompliance. At a minimum, this Plan shall:

(i) Describe how the POTW will investigate instances of noncompliance;

(ii) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of Industrial User violations and the time periods within which responses will take place;

(iii) Adequately reflect the POTW's primary responsibility to enforce all applicable Pretreatment Requirements and Standards, as detailed in §§ 403.5 and 403.8(f) (1) and (2).

§ 403.10 [Amended]

6. § 403.10 is proposed to be amended by removing the first sentence in paragraph (c).

7. § 403.12 is proposed to be amended by adding text to the end of paragraph (h) by revising paragraphs (i)(1), (j), and (n), and adding new paragraph (p) to read as follows:

§403.12 Reporting requirements for POTWs and Industrial Users

* * * * *

(h) * * * Significant Industrial Users shall submit to the Control Authority at least twice a year a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the Administrator.

* * * * *

(i) * * *

(1) An updated listed of the POTW's Industrial Users, including their names and addresses, or a list of deletions and additions keyed to a previously submitted list. The POTW shall provide a brief explanation of each deletion. The list shall identify which Industrial Users are Significant Industrial Users and provide a brief explanation of why any noncategorical discharger with an average flow of 25,000 gallons per day or more of process wastewater was not designated as a Significant Industrial User. The list shall also identify those Industrial Users which are subject to categorical Pretreatment Standards and specify which Standards are applicable to each Industrial User.

* * * * *

(j) *Notification of changed discharge.* All Industrial Users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under § 403.12(p).

* * * * *

(n) *Provisions governing Fraud and False statements:* The reports required to be submitted under this section shall be subject to the provisions of 18 U.S.C. section 1001 relating to fraud and false statements and the provisions of sections 309(c) (4) and (6) of the Act, as amended, governing false statements, representation or certifications in reports required under the Act.

* * * * *

(p) *Notification of the discharge of hazardous wastes.* (1) The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities of any discharge into the POTW of a substance which is a listed or characteristic waste under section 3001 of RCRA. Such notification must include a description of any such wastes discharged, specifying the volume and concentration of such wastes and the type of discharge (continuous, batch, or other), identifying the hazardous constituents contained in the listed wastes, and estimating the volume of hazardous wastes expected to be discharged during the following twelve months. The notification must take place within 180 days of the effective date of this rule. This requirement shall not apply to pollutants already reported under the self-monitoring requirements of § 403.12(b), (d), and (e).

(2) Dischargers are exempt from the requirements of paragraph (p)(1) of this section during a calendar month in which they generate no more than 100 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.5(e), (f), (g), and (j). Generation of more than one hundred kilograms of hazardous wastes in any given month requires a one-time notification. Subsequent months during which the industrial user generates more than one hundred kilograms of hazardous waste do not require additional notification, except for the acute hazardous wastes specified in 40 CFR 261.5(e), (f), (g), and (j).

(3) In the case of new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user must notify the POTW of the discharge of such substance within 90 days of the effective date of such regulations, except for the exemption in paragraph (p) (2) of this section.

(4) In the case of any notification made under this paragraph (p) of this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of wastes generated to the degree it has determined to be economically practicable and that it has selected the method of treatment, storage, or disposal currently available which minimizes the present and future threat to human health and the environment.

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LIST OF PUBLIC LAWS

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

S. 2215/Pub. L. 100-679

Office of Federal Procurement Policy Act Amendments of 1988. (Nov. 17, 1988; 102 Stat. 4055; 18 pages) Price: $1.00

S. 2470/Pub. L. 100-680

Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988. (Nov. 17, 1988; 102 Stat. 4073; 5 pages) Price: $1.00

S.J. Res. 327/Pub. L. 100-681

Commemorating January 28, 1989, as a "National Day of Excellence" in honor of the crew of the space shuttle Challenger. (Nov. 17, 1988; 102 Stat. 4078; 1 page) Price: $1.00

S.J. Res. 332/Pub. L. 100-682

To designate the period commencing December 11, 1988, and ending December 17, 1988, as "National Drunk and Drugged Driving Awareness Week." (Nov. 17, 1988; 102 Stat. 4079; 2 pages) Price: $1.00

S.J. Res. 352/Pub. L. 100-683

Designating September 24, 1989, as "United States Marshals Bicentennial Day." (Nov. 17, 1988; 102 Stat. 4081; page) Price: $1.00

S.J. Res. 365/Pub. L. 100-684

To designate January 28, 1989, as "National Challenger Center Day" to honor the crew of the space shuttle Challenger. (Nov. 17, 1988; 102 Stat. 4082; 1 page) Price: $1.00

S. 2209/Pub. L. 100-685

National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989. (Nov. 17, 1988; 102 Stat. 4083; 21 pages) Price: $1.00

H.J. Res. 650/Pub. L. 100-686

Designating April 1989 as "Actors Fund of America Appreciation Month." (Nov. 18, 1988; 102 Stat. 4104; 1 page) Price: $1.00

S. 11/Pub. L. 100-687

To amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans" Administration; to establish a Court of Veterans' Appeals and to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; to increase the rates of compensation payable to veterans with service-connected disabilities; and to make various improvements in veterans' health, rehabilitation, and memorial affairs programs; and for other purposes. (Nov. 18, 1988; 102 Stat. 4105; 34 pages) Price: $1.25

S. 2030/Pub. L. 100-688

To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to provide for termination of ocean dumping of sewage sludge and industrial waste, and for other purposes. (Nov. 18, 1988; 102 Stat. 4139; 22 pages) Price: $1.00

S. 2049/Pub. L. 100-689

Veterans' Benefits and Programs Improvement Act of 1988. (Nov. 18, 1988; 102 Stat. 4161; 20 pages) Price: $1.00

H.R. 5210/Pub. L. 100-690

Anti-Drug Abuse Act of 1988. (Nov. 18, 1988; 102 Stat. 4181; 365 pages) Price: $11.00